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**REPUBLIC OF KENYA**



**MINISTRY OF INVESTMENTS, TRADE, AND INDUSTRY**

**KENYA INTELLECTUAL PROPERTY POLICY**

**June, 2026**

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## **ABBREVIATIONS AND ACRONYMS**

ABS	Access and Benefit Sharing
ACA	Anti-Counterfeit Agency
ACTS	African Center for Technology Studies
AI	Artificial Intelligence
APVC	Agricultural Product Value Chain
ARIPO	African Regional Intellectual Property Organization
ASALs	Arid and Semi-Arid lands
ASDS	Agricultural Sector Development Strategy
BETA	Bottom-UP Economic Transformation Agenda
BPO	Business Process Outsourcing
CA	Communication Authority of Kenya
CBD	Convention on Biological Diversity
CMO	Collective Management Organization
DCI	Directorate for Criminal Investigations
DL	Distance Learning
DPA	Data Protection Act
DUS	Distinctness, Uniformity and Stability
EAC	East African Community
ERP	Enterprise Resource Planning
GDP	Gross Domestic Products
ICT	Information Communication Technology
IITA	International Institute of Tropical Agriculture
IoT	Internet of Things
IP	Intellectual Property
IPAK	Intellectual Property Agency of Kenya
IPAS	Industrial Property Administration System
IPPC	International Plant Protection Convention
IPR	Intellectual Property Right
JKUAT	Jomo Kenyatta University of Agriculture and Technology
KAMP	Kenya Association of Music Producers

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KARI	Kenya Agricultural Research Institute
KEBS	Kenya Bureau of Standards
KECOBO	Kenya Copyright Board
KEFRI	Kenya Forest Research Institute
KENIA	Kenya National Innovation Agency
KEPHIS	Kenya Plant Health Inspectorate Services
KFC	Kenya Film Commission
KIPI	Kenya Industrial Property Institute
KIPPRA	Kenya Institute for Public Policy, Research and Analysis
KoTDA	Konza Technopolis Development Authority
KRA	Kenya Revenue Authority
LDC	Least Developed Countries
MAT	Mutually Agreed Terms
MCSK	Music Copyright Society of Kenya
MITI	Ministry of Investment, Trade and Industry
MTP	Medium-Term Plan
NAPCIT	National Action Plan to Combat Illicit Trade
NCCA	National Climate Change Action
NRF	National Research Fund
NRR	National Rights Registry
NSP	National Seed Policy
OACPS	Organization of African Caribbean Pacific States
ODPP	Office of Director of Public Prosecution
OECD	Organisation of Economic Cooperation and Development
PAP	Partners Against Piracy
PBAK	Plant Breeders Association of Kenya
PBR	Plant Breeders' Rights
PCE	Phytosanitary Capacity Evaluation
PIC	Prior Informed Consent
PRSK	Performers Rights Organization of Kenya
PSF	Policy Support Facility

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PVR	Plant Varieties Rights
R&I	Research and Innovation
SASDF	Sports, Arts and Social Development Fund
SME	Small and Medium Enterprise
ST&I	Science, Technology and Innovation
STAK	Seed Trade Association of Kenya
TCES	Traditional Cultural Expressions
TISC	Technology and Innovation Support Centers
TKCES	Traditional Knowledge and Cultural Expressions
TRIPS	Trade Related Aspects of Intellectual Property Rights
TVET	Technical Vocational Education and Training
UCC	Universal Copyright Convention
UFB	University Funding Board
UPOV	International Union for the Protection of New Varieties of Plants
WCT	WIPO Copyright Treaty
WIPO	World Intellectual Property Organization
WPPT	WIPO Performers and Phonogram Treaty

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## DEFINITION OF TERMS

**Assignment:** The transfer of ownership of an intellectual property right from one party (assignor) to another (assignee).

**Awareness and Outreach:** Activities aimed at educating and sensitizing the public, creators, businesses, and institutions on the importance, benefits, and procedures of IP protection, enforcement, and commercialization.

**Collective Management Organization (CMO):** An entity licensed to administer rights on behalf of copyright owners and related rights holders, including collection and distribution of royalties.

**Commercialization of IP:** The process of bringing an intellectual property asset to the market to generate economic value, through mechanisms such as licensing, franchising, assignment, spin-offs, and start-ups.

**Copyright:** The exclusive legal right granted to authors, creators, and artists over their original literary, musical, artistic, dramatic, and audiovisual works, as well as computer programs, databases, and architectural works.

**Counterfeiting:** The unauthorized imitation of genuine goods, services, or works, usually involving the violation of trademarks, copyrights, or industrial designs, with the intention to deceive consumers.

**Creator/Inventor:** A person or entity that originates a work of authorship, invention, or design that is eligible for intellectual property protection.

**Emerging Technologies:** New and rapidly evolving fields of technology such as artificial intelligence, blockchain, biotechnology, nanotechnology, and digital innovations that have significant implications for IP protection and management.

**Enforcement Agencies:** Government institutions and authorities mandated to ensure compliance with IP laws and regulations, including border control, customs, police, and regulatory authorities.

**Genetic Resources (GRs):** Hereditary material contained in plants, animals, or micro-organisms of actual or potential value, often used in research, breeding, or biotechnology.

**Geographical Indication (GI):** A sign used on products that have a specific geographical origin and possess qualities, reputation, or characteristics essentially attributable to that origin (e.g., coffee, tea, or handicrafts linked to a region).

**Industrial Design:** The ornamental or aesthetic aspect of a product, including shape, configuration, pattern, or color, which gives the product a unique visual appeal and distinguishes it from others.

**Industrial Property:** A category of intellectual property that includes patents, utility models, industrial designs, trademarks, geographical indications, and trade secrets, which are primarily used in industry, manufacturing, and commerce.

**Infringement:** The unauthorized use of intellectual property rights without the consent of the owner or in violation of applicable laws.

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**Innovation Hub / Incubator / Accelerator:** Institutions or programs that support innovators and entrepreneurs in developing and scaling up their innovations, often by providing mentorship, funding, infrastructure, and IP management support.

**Innovation:** The practical implementation of new ideas, methods, or technologies to create value in the form of improved goods, services, or processes.

**Intellectual Property (IP):** Creations of the mind, such as inventions, literary and artistic works, designs, symbols, names, images, and geographical indications, which are protected by law to give creators or owners exclusive rights over their use for a specified period.

**Intellectual Property Rights (IPRs):** The legal rights granted to creators and owners of intellectual property to protect their innovations, creations, and distinctive marks. These rights include patents, trademarks, copyrights, industrial designs, geographical indications, plant breeders' rights, trade secrets, and rights in traditional knowledge and cultural expressions.

**Knowledge Economy:** An economy driven by the production, distribution, and use of knowledge and information, where intellectual property plays a central role in wealth creation and competitiveness.

**Licensing Agreement:** A legal contract in which the owner of intellectual property grants permission to another party to use the IP under defined conditions, often in exchange for royalties or fees.

**Monitoring and Evaluation (M&E):** A systematic process of tracking and assessing the implementation and outcomes of IP policies, strategies, and initiatives to ensure accountability, effectiveness, and continuous improvement.

**Patent:** An exclusive right granted for an invention that is new, involves an inventive step, and is capable of industrial application. A patent gives the holder the right to exclude others from making, using, selling, or distributing the patented invention without consent.

**Piracy:** The unauthorized reproduction, distribution, or use of copyrighted works such as books, music, films, or software, typically for commercial gain.

**Plant Breeders' Rights (PBRs):** Exclusive rights granted to breeders of new plant varieties that are distinct, uniform, and stable (DUS), enabling them to control the propagation and commercialization of their plant varieties.

**Related Rights (Neighboring Rights):** Rights granted to performers (actors, musicians, dancers), producers of sound recordings, and broadcasting organizations over their performances, recordings, and broadcasts.

**Service Mark:** A sign or symbol that distinguishes the services of one provider from those of others.

**Technology Transfer Office (TTO):** A specialized institutional unit responsible for identifying, protecting, managing, and commercializing intellectual property arising from research and development activities.

**Technology Transfer:** The process of transferring skills, knowledge, technologies, methods of manufacturing, and facilities among governments, universities, research institutions, and private

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enterprises to ensure scientific and technological developments are accessible for wider use and commercialization.

**Trade Secret:** Confidential business information that provides a competitive edge, such as formulas, practices, processes, or know-how, which must be protected against unauthorized disclosure or use.

**Trademark:** A sign, symbol, logo, word, phrase, or combination thereof that distinguishes the goods or services of one enterprise from those of others.

**Traditional Cultural Expressions (TCEs):** Forms of artistic and cultural expression, such as music, dance, designs, symbols, and crafts, which are integral to the cultural identity and heritage of communities.

**Traditional Knowledge (TK):** Knowledge, skills, innovations, and practices of indigenous and local communities developed from experience gained over centuries and adapted to the local culture and environment, often transmitted orally.

**Utility Model:** A form of intellectual property protection similar to patents but usually granted for technical innovations of a lower inventive threshold or shorter life span. Often referred to as “petty patents” or “innovation patents.”

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## **FOREWORD**

The National Intellectual Property Policy of Kenya is founded on the vision of transforming ideas into assets that power innovation, creativity, and industrial growth. Intellectual property (IP) is a cornerstone of modern economies, driving competitiveness, attracting investment, and enabling nations to leverage knowledge and creativity for sustainable socio-economic development.

As globalization and technological advancements continue to reshape markets and societies, countries are rethinking how to structure and strengthen their intellectual property systems. Kenya is no exception. A robust IP framework comprising institutions, policies, laws, and regulations is essential not only for protecting the rights of creators and innovators but also for fostering an environment where knowledge is translated into solutions that meet local needs while competing effectively in international markets.

Kenya's transformation into a knowledge-driven economy requires a dynamic IP system that supports key sectors such as agriculture, manufacturing, the creative industries, ICT, and the blue economy. However, challenges such as limited IP awareness, weak commercialization pathways, inadequate funding for research and innovation, and enforcement gaps continue to hinder the full potential of IP in driving development. This Policy seeks to address these challenges comprehensively by providing a coordinated framework that strengthens the generation, protection, commercialization, and enforcement of IP assets.

The successful implementation of this Policy will require strong collaboration between government institutions, private sector actors, academia, civil society, and international partners. By working together, Kenya will cultivate a culture of innovation and creativity that uplifts communities, empowers youth and women, and positions the country as a regional leader in knowledge-driven development.

This National Intellectual Property Policy is therefore a critical step in building an inclusive, responsive, and internationally recognized IP system. It will safeguard the rights of innovators and creators while ensuring that the benefits of intellectual property contribute to national prosperity, social well-being, and global competitiveness in the years ahead.

**Hon. Lee Maiyani Kinyanjui,**

Cabinet Secretary Ministry of Investments, Trade, and Industry

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## **PREFACE AND ACKNOWLEDGEMENT**

The National Intellectual Property Policy is being launched at a time when economies are increasingly knowledge-driven, innovation-centered, and globally interconnected. Intellectual property (IP) has emerged as a central pillar for enhancing competitiveness, stimulating innovation, attracting investment, and facilitating economic integration through knowledge-based trade. This Policy provides a comprehensive framework to guide the generation, protection, commercialization, and enforcement of IP in Kenya, thereby positioning the country to harness creativity and innovation as engines for inclusive and sustainable development.

Kenya's intellectual property landscape, while dynamic, continues to face notable policy and operational gaps that limit its full potential. These include fragmented legal and institutional frameworks, inadequate coordination among IP agencies, weak enforcement mechanisms, limited funding for research, innovation, and IP protection, and insufficient linkages between IP generation and commercialization. Additionally, data collection and evidence-based policymaking in IP remain underdeveloped, making it difficult to measure impact or assess progress effectively. The NIPPS therefore prioritizes the establishment of systematic mechanisms for data collection, IP metrics, and national surveys to support continuous learning, accountability, and adaptive policy implementation.

The Policy aligns with key national, regional, and continental development frameworks, including the Bottom-Up Economic Transformation Agenda (BETA), the African Continental Free Trade Area (AfCFTA), the East African Community (EAC) Common Market Protocol, the EAC Vision 2050, and the African Union's Agenda 2063. It seeks to ensure that creativity, innovation, and knowledge creation translate into tangible economic and social benefits for all Kenyans, while promoting value addition, industrial transformation, and cultural preservation. Universities, research institutions, and centers of knowledge are acknowledged as critical drivers of Kenya's innovation ecosystem. Strengthening IP management systems in these institutions will enable the translation of research outputs into market-ready solutions that address national development challenges. The role of micro, small, and medium enterprises (MSMEs), creative industries, and local innovators is equally recognized in expanding Kenya's innovation frontier and building a vibrant, inclusive economy.

The development of this Policy has been a broad-based and participatory process that benefitted from contributions from multiple stakeholders. These include national and county government institutions, intellectual property agencies, enforcement bodies, universities and research institutions, private sector associations, innovators, creators, and representatives of indigenous and local communities. Development partners and regional organizations also provided technical insights that strengthened the Policy's strategic direction.

Special appreciation is extended to the the Inter-Agency Technical Committee for providing expert input, and all collaborating institutions for their commitment and support. We also acknowledge the technical assistance and facilitation provided by the World Intellectual Property Organization (WIPO), which played a pivotal role in supporting the national consultative processes and expert engagements.

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This Policy thus provides a clear and actionable roadmap for building a coherent, inclusive, and forward-looking IP ecosystem. It underscores the Government of Kenya’s commitment to ensuring that intellectual property serves as a catalyst for innovation, industrial transformation, and socio-economic prosperity for present and future generations

**Dr. Juma Mukhwana, PhD, CBS**

Principal Secretary

State Department for Industry Ministry of Investments, Trade, and Industry

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## EXECUTIVE SUMMARY

The National Intellectual Property Policy (NIPP) for Kenya provides a comprehensive framework for harnessing intellectual property (IP) as a driver of innovation, creativity, and economic growth. Developed through a consultative, evidence-based process, the NIPP addresses challenges in IP generation, protection, enforcement, education, awareness, and commercialization. It aligns with national development goals under Kenya Vision 2030, the Bottom-Up Economic Transformation Agenda (BETA), and international commitments such as TRIPS and the African Continental Free Trade Area Protocol on IP. The development of the policy has been motivated by the fact that Kenya's transformation into a knowledge-based economy necessitates a robust and coherent Intellectual Property (IP) policy framework. The National Intellectual Property Policy is designed to harness the economic potential of innovation, creativity, and indigenous knowledge. The policy provides the foundation for coherent, coordinated, and inclusive IP development, aligned with the national development agenda. The development of this policy followed an inclusive, participatory, and evidence-based methodology. A multi-agency Steering Committee was constituted, comprising representatives from the Kenya Industrial Property Institute (KIPI), Kenya Copyright Board (KECOBO), Kenya Plant Health Inspectorate Service (KEPHIS), Anti-Counterfeit Authority (ACA), Kenya National Innovation Agency (KENIA), Ministry of Youth Affairs, Creative Economy and Sports, Ministry of Education, Ministry of Investment, Trade and Industry (MITI), and other relevant stakeholders.

The development of the policy consisted of six steps: desk review, field data collection, preparation and validation of the situation analysis report, preparation of the draft national IP policy, review and validation of the draft policy, and finally subjecting the policy to public participation. Apart from a comprehensive desk review, additional data were collected through institutional submissions, stakeholder consultations, benchmarking with international practices, and analysis of existing legislative, institutional, and operational frameworks. The World Intellectual Property Organization (WIPO) provided technical support throughout the process. The Situation Analysis identified the following six strategic issues:

- a) **Legislative and Policy Gaps:** Whereas Kenya has made significant progress, the IP legal framework has some gaps, including outdated statutes and missing legislations on critical areas such as trade secrets, geographical indications, and non-traditional trademarks. The integration of new technologies like AI and digital rights management is also insufficient.
- b) **Institutional and Governance Weaknesses:** Whereas the country has a comprehensive institutional framework consisting of five agencies (KIPI, KECOBO, ACA, KEPHIS, and KeNIA) responsible for various aspects of IP rights, overlapping mandates, limited funding, understaffing, and inadequate regional presence constrain the effectiveness of these agencies in service delivery.
- c) **Limited Enforcement Capacity:** While Kenya is among the few African countries with stand-alone enforcement Act and Authority, IP enforcement in Kenya is hindered by poor inter-agency collaboration, a lack of specialized IP courts, insufficient training for enforcement officers, and the absence of a national public awareness strategy.
- d) **Weak Commercialization Infrastructure:** This is attributed to the fact that most Technology Transfer Offices (TTOs) and innovation hubs face funding and skills gaps; most universities lack effective IP policies or mechanisms to commercialize research outputs, and there is minimal support for start-ups and MSMEs to protect innovations.

- e) **Inadequate funding for R&D and IP protection:** Kenya is yet to meet its target of allocating 2% of GDP to research and development. Furthermore, the majority of the existing funding for R&D is directed toward academic research, with minimal allocation for innovation, intellectual property protection, or commercialization efforts.
- f) **Inclusivity and Access Challenges:** Women, rural innovators, Persons with Disabilities (PWDs) and informal sector players remain underrepresented. IP awareness, data systems, and capacity for gender and regional inclusion remain weak.

This National Intellectual Property Policy is intended to address these strategic issues and is guided by its vision, mission, goals, and strategic objectives, as described below.

<b>Vision</b>	A country whose economy is driven by intellectual property
<b>Mission</b>	To promote and facilitate the utilization of intellectual property rights for inclusive and sustainable socio-economic development in Kenya by strengthening the intellectual property system.
<b>Policy Goal</b>	The primary goal of this National Intellectual Property Policy and Strategy is to enhance a robust and dynamic intellectual property system that promotes innovation, creativity, and competitiveness while contributing to Kenya’s sustainable economic growth and development.

**STRATEGIC OBJECTIVES**

1. Strengthen the legal and regulatory frameworks for the protection, registration and enforcement of intellectual property rights.
2. Enhance institutional frameworks for the effective administration, coordination, and management of intellectual property rights.
3. Strengthen the generation, protection, and maintenance of intellectual property assets across all sectors of the economy.
4. Enhance the commercialization of intellectual property rights and facilitate technology transfer.
5. Strengthen the legislative and institutional framework for enforcing intellectual property rights.
6. Strengthen intellectual property education, training, awareness, and outreach at all levels of society.
7. Promote regional and international cooperation in intellectual property.
8. Strengthen the use of evidence for policy and decision-making on IP issues.

The policy has seven thematic pillars with corresponding strategic priorities and over 40 strategies. The implementation of this policy will be coordinated by the designated lead government agency responsible for intellectual property, in collaboration with national IP offices and relevant public and private sector stakeholders. An Inter-Agency Committee will be established to oversee execution, while a National IP Strategy Implementation Framework will outline specific roles, timelines, budgets, and monitoring indicators. Annual progress reviews

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and a mid-term evaluation will be conducted to assess policy effectiveness and inform adjustments. Resource mobilization from the government, private sector, and development partners will be key to sustainability.

## CHAPTER ONE

### INTRODUCTION

#### 1.1 Background Information

Intellectual Property (IP) has become a vital instrument for stimulating innovation, fostering creativity, and driving competitiveness in today's knowledge-based global economy. As economies increasingly rely on the creation, protection, and commercialization of knowledge and creative outputs, IP serves as a cornerstone for sustainable development, industrial growth, and technological advancement.

In Kenya, IP encompasses a wide range of rights that protect creations of the mind, including inventions, literary and artistic works. These rights collectively support innovators, creators, and entrepreneurs by enabling them to derive economic value from their ideas, thereby encouraging continued investment in research, innovation, and cultural expression.

The country's IP system covers industrial property rights that includes patents, utility models, technovations, trademarks, industrial designs, trade secrets, and geographical indications, which promote technological progress and brand competitiveness. Copyright and related rights safeguard literary, artistic, musical, and digital works, ensuring that creators and performers receive fair recognition and remuneration for their efforts. Plant Breeders' Rights (PBRs) protect innovations in agriculture by encouraging the development of improved crop varieties, contributing to food security and rural livelihoods.

Kenya also acknowledges protection and preservation of Traditional Knowledge (TK), Genetic Resources (GR), and Expressions of Folklore. These represent invaluable cultural and biological assets that underpin indigenous innovation systems and community resilience. Their protection ensures equitable benefit-sharing and preservation of Kenya's diverse cultural heritage.

In addition, Kenya is a signatory to several international and regional instruments that provide the foundation for its IP policy framework. These include the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS), the Paris and Berne Conventions, and the Swakopmund Protocol on the Protection of Traditional Knowledge and Expressions of Folklore under the African Regional Intellectual Property Organization (ARIPO). These frameworks guide Kenya in aligning national IP laws and practices with international standards while safeguarding national interests.

Despite significant progress, Kenya's IP system still faces structural challenges, including fragmented legislation, limited public awareness, underdeveloped enforcement mechanisms, and inadequate integration of IP into national innovation systems. Many universities, research institutions, and enterprises lack effective IP management structures such as Technology Transfer Offices (TTOs), and there remains a funding gap for IP generation, protection, and commercialization. These challenges highlight the need for a coordinated, well-resourced, and future-focused policy that strengthens Kenya's IP ecosystem across all sectors of the economy.

The development of the National Intellectual Property Policy is therefore informed by the need to create a coherent framework that enhances IP generation, protection, management, commercialization, and enforcement. The Policy aims to transform Kenya's IP landscape into a

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dynamic driver of innovation, industrialization, and socio-economic development, while ensuring that creators, innovators, and communities benefit equitably from their intellectual contributions.

### **1.1.1 Historical context of IP in Kenya**

Kenya is a dynamic and rapidly growing economy in East Africa, poised to achieve sustainable development through innovation, creativity, and entrepreneurship. According to the KNBS 2024, the country's population was approximately 52.5 million, with a significant demographic advantage: 75% are under the age of 35, representing a vibrant and productive workforce. On the other hand, the Economic Survey 2025 shows that the economy has demonstrated resilience in the face of global challenges, achieving a growth rate of 4.7% in 2024.

The national development trajectory is guided by Vision 2030 and the Bottom-Up Economic Transformation Agenda (BETA) for 2022–2027. These strategic frameworks prioritize key sectors such as agriculture, manufacturing, the blue economy, creative industries, tourism, and small and medium enterprises (SMEs). Within this context, research, innovation, and intellectual property (IP) are recognized as essential drivers for economic growth, job creation, and enhancing global competitiveness.

During the last 25 years, the development of the IP system in Kenya has evolved considerably. Key milestones in institutional development have included the establishment of the Kenya Industrial Property Institute (KIPI) and the Kenya Copyright Board (KECOBO) in 2001, the Kenya Plant Health Inspectorate Services in 1996, the Kenya Anti-Counterfeit Office in 2008, and both the Kenya National Innovation Agency and the National Research Fund 2014. In addition, Kenya has enacted appropriate IP legislations such as the Industrial Property Act (2001 revised in 2012), the Copyright Act (2001, revised in 2022), the Anticounterfeit Act (2008), Science Technology and Innovation Act (2013) and the Traditional Knowledge and Cultural Expression (2016). These achievements have made Kenya to be a powerhouse in matters IP in the Sub-Saharan Africa. Despite these achievements, today Kenya does not have a comprehensive policy framework to guide generation, protection, commercialization, and enforcement of intellectual property rights.

### **1.1.2 Best Practices at global, regional and national levels**

Developing and implementing national IP policies is today seen as best practice in the management of IP as a tool for economic transformation globally and regionally. For example, China adopted its first National IP strategy in 2008, South Korea in 2011, India in 2016, and Singapore in 2021. Successes attributed to China's National IP Policy include becoming the world largest patent filer by 2011, a surge in innovation driven enterprises and rapid increase in awareness of IP by Chinese firms and universities. Regionally, several countries have recently adopted national IP policies. They include Zambia (2010, revised 2020), Ghana (2016), the Gambia (2018), Uganda (2019), Namibia (2019), and Botswana (2022). Furthermore, the African Continental Free Trade Area (AfCFTA) IP Protocol, which was adopted in 2023, has put emphasis on harmonizing IP systems, strengthened enforcement and facilitate cross border trade in innovation and creativity.

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### **1.1.3 Past government interventions on the issue of National IP Policy**

This is the third time that Kenya Government has initiated the process of development an IP policy and strategy, the first and the second times having been in 2007 and 2012. Both cases involved extensive situation analysis and stakeholder engagements leading to the preparation of the final drafts. While these drafts were never formally adopted as policies,, some key recommendations were implemented. For example, the 2007 draft recommended the development of a stand-alone legislation on IP enforcement, and the establishment of an enforcement agency, both of which became a reality. Similarly, the 2012 draft recommended the establishment of a national agency responsible for commercialization and technology transfer, which was implemented through the STI Act 2013, which created the Kenya National Innovation Agency. However, some recommendations such as the development of legislation on geographical indications and trade secrets as well as the creations of a single agency for IP protection, commercialization and enforcement remain unrealized.

### **1.2 Policy Issues Identification**

The situational analysis has identified several critical policy issues that must be addressed to enhance Kenya’s intellectual property ecosystem and support national development goals. Kenya’s intellectual property (IP) system currently faces systemic challenges that undermine its ability to foster innovation, creativity, and economic transformation. At the core of the problem is the weak capacity for the generation, protection, commercialization, and enforcement of IP assets, compounded by inadequate and unsustainable funding. The legal and institutional frameworks remain fragmented, enforcement is inconsistent, and innovators, researchers, and creators lack the financial and technical support required to transform their ideas into protected and marketable IP assets.

Statistical evidence highlights the magnitude of the challenges. According to the Kenya Industrial Property Institute (KIPI), patent applications by Kenyan residents have averaged fewer than 200 annually, compared to over 2,000 in South Africa (WIPO IP Statistics, 2022). Utility models, industrial designs, and trademarks are also underutilized despite Kenya’s dynamic entrepreneurial and creative base. The Kenya National Bureau of Statistics (KNBS) MSME Survey (2016) showed that more than 70 percent of MSMEs operate without awareness of IP rights, limiting their ability to protect innovations and build competitive advantage. Funding remains a critical barrier: Kenya spends less than 1 percent of GDP on research and development (R&D), far below the 2 percent provided for in the STI Act (2013). Even within this limited funding, resources are largely channeled to academic research, with minimal allocation to innovation, IP protection, and commercialization. Weak enforcement further compounds the problem. The Anti-Counterfeit Authority (2021) estimated that counterfeit goods account for over 10 percent of the Kenyan market, resulting in losses of approximately KES 50 billion annually while undermining legitimate businesses and endangering public health.

Kenya’s declining position in the Global Innovation Index (GII) underlines the urgency of reform. In the 2025 edition of the GII, Kenya ranked 102nd out of 139 economies, falling from 96th in 2024, 100<sup>th</sup> in 2023 and 88th in 2022. This consistent drop demonstrates the persistence of structural weaknesses, particularly in innovation inputs such as funding,

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infrastructure, human capital, and institutional effectiveness, even as the country performs moderately well in outputs such as ICT services and the creative economy. The imbalance between outputs and inputs reflects the fragility of Kenya’s innovation ecosystem and the limited effectiveness of its IP system.

The persistence of these issues is linked to multiple underlying causes. First, Kenya’s IP legal and institutional frameworks are fragmented, with gaps, overlaps, and inefficiencies in protection and enforcement. Key institutions—such as the Kenya Industrial Property Institute (KIPI), the Kenya Copyright Board (KECOBO), the Kenya Plant Health Inspectorate Services (KEPHIS), and enforcement agencies—often operate in silos, resulting in duplication of effort and weak coordination. Second, public awareness and IP education remain low. MSMEs, researchers, innovators, and the wider public lack sufficient knowledge of how IP can be used to protect and grow enterprises. Capacity-building for enforcement officials and policymakers is insufficient, leaving systemic weaknesses unaddressed. Third, commercialization pathways remain underdeveloped. Research outputs from universities and research institutions often remain unprotected or unexploited due to weak technology transfer mechanisms, limited innovation funding, and fragile linkages with industry. Fourth, enforcement mechanisms remain underfunded and under-resourced, leading to a surge in piracy, counterfeiting, and unauthorized use of IP assets. Fifth, emerging forms of IP such as Traditional Knowledge (TK), Genetic Resources (GR), and Expressions of Folklore lack comprehensive protection frameworks, resulting in exploitation without equitable benefit-sharing.

The impact of these challenges is not uniform but falls disproportionately on vulnerable and strategic groups. SMEs, which form the backbone of Kenya’s economy, struggle to protect brands and innovations, limiting their competitiveness. Women and youth innovators face additional barriers to participation in the IP system, widening the inclusivity gap. Researchers and universities generate valuable knowledge but face challenges in protecting and commercializing outputs due to weak institutional frameworks and funding. Indigenous communities risk losing control over Traditional Knowledge and Cultural Expressions without benefiting equitably from their use. Consumers, meanwhile, bear the risks of counterfeit goods, including compromised safety and quality.

The costs of inaction are high and growing. Failure to address these policy issues perpetuates the “valley of death” where innovations are unable to transition from research to market, eroding investor confidence and discouraging private sector engagement. Piracy and counterfeiting erode revenues, jobs, and public trust. Continued decline in innovation rankings diminishes Kenya’s competitiveness under frameworks such as the African Continental Free Trade Area (AfCFTA), and leaves the country vulnerable in global trade.

Addressing these challenges is not only an economic imperative but also a legal, ethical, and moral one. Protecting IP rights is enshrined in Kenya’s Constitution under the Bill of Rights, which guarantees the right to property and the protection of cultural heritage. Failing to safeguard innovations, creative works, and indigenous knowledge undermines these constitutional commitments. Stakeholders across government, academia, industry, civil society, and indigenous groups have expressed a strong demand for a coherent and coordinated IP system that works for all Kenyans.

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The costs of weak IP system in terms of generation, protection, commercialization and enforcement are borne heavily by SMEs, women and youth innovators, researchers in universities and research organization, indigenous community. By addressing the abovementioned challenges, the National IP policy will deliver benefits to these segments of the affected population

### **1.3 Rationale for the Policy**

This policy addresses critical areas of intellectual property rights (IPRs), including industrial property rights, copyright and related rights, plant breeders' rights, and the protection of traditional knowledge, folklore, and genetic resources. These IPRs are essential for driving innovation and fostering growth across Kenya's key economic sectors, which include trade and industry, small and medium enterprises (SMEs), tourism, the creative sector, and agriculture. The implementation of this policy is expected to yield several significant benefits.

Firstly, enhancing access to technologies and innovations is a primary objective. A well-structured IP system will facilitate the transfer and adoption of technologies needed to improve productivity and competitiveness across various sectors of the economy. Secondly, the policy aims to stimulate inventions and creativity by granting exclusive rights for a limited period. This approach will encourage innovators, creators, and breeders to develop solutions that address national priorities and economic challenges.

Furthermore, the policy will facilitate market entry and commercialization for innovators and entrepreneurs. By enabling them to attract venture capital, forge licensing agreements, and effectively exploit their IP assets, the policy will promote the growth of start-ups and enterprises. In addition, strengthening market competition through robust trademark and industrial design protections will ensure product differentiation, enhance brand recognition, and build consumer confidence, thereby driving fair competition in the marketplace.

The policy also aims to provide access to crucial research and development information. Patents and other IP systems will serve as valuable sources of technical and scientific knowledge that support research, innovation, and technological advancement. Additionally, empowering youth and SMEs is a vital component of this policy; it will promote youth participation in enterprise development by encouraging the use of IP rights for establishing start-ups, creating licensing opportunities, and fostering joint ventures that contribute to job creation and economic empowerment.

By addressing these priorities comprehensively, this policy will unlock Kenya's innovation potential, enhance economic growth, and ensure inclusive and sustainable development. The proactive approach outlined herein is designed to create an environment where intellectual property can thrive as a cornerstone of Kenya's economic strategy.

### **1.4 Policy Goals and Objective**

#### **1.4.1 Policy Goals**

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The primary goal of this National Intellectual Property Policy is to build a coherent, inclusive, and dynamic intellectual property system that catalyzes innovation, protects creativity, facilitates commercialization, and secures Kenya’s cultural and knowledge assets, thereby driving sustainable socio-economic development and global competitiveness.

#### **1.4.2 Policy Objectives**

The National IP Policy will pursue the following eight objectives:

1. Strengthen the legal and regulatory frameworks for the protection, registration, and enforcement of intellectual property rights.
2. Enhance institutional frameworks for effective administration, coordination, and management of intellectual property rights.
3. Strengthen the generation, protection, and maintenance of intellectual property assets across all sectors of the economy.
4. Enhance the commercialization of intellectual property rights and facilitate technology transfer.
5. Strengthen the legislative and institutional framework for enforcing intellectual property rights.
6. Strengthen intellectual property education, training, awareness, and outreach at all levels of society.
7. Promote regional and international cooperation in intellectual property; and
8. Strengthen the use of evidence for policy and decision-making on IP issues.

By achieving these objectives, this policy will enable Kenya to harness the full potential of intellectual property as a driver of economic growth, innovation, and global competitiveness while ensuring that all segments of society can benefit from its advantages

#### **1.5 Scope of the Policy**

The National Intellectual Property Policy encompasses a comprehensive framework designed to enhance the protection, administration, and enforcement of intellectual property rights (IPRs) across various sectors. It addresses multiple forms of intellectual property, including patents, utility model, trade secrets, trademarks, copyrights, industrial designs, plant breeders' rights, geographical indications and the protection of traditional knowledge, folklore, genetic resources. By focusing on these diverse categories of IPRs, the policy applies to individuals, enterprises, research and academic institutions, government agencies, civil society organizations, and communities that generate, utilize, or protect intellectual property assets. The Policy also extends to digital and technology-driven innovations, addressing contemporary challenges such as online piracy, counterfeiting, artificial intelligence generated works, and other emerging trends in the digital economy.

To achieve the objectives, the policy emphasizes the strengthening of legal and institutional frameworks governing intellectual property in Kenya. This involves a thorough review and harmonization of existing laws—such as the Industrial Property Act and Copyright Act—with international treaties and best practices to ensure effective protection and enforcement of IPRs.

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The policy also seeks to enhance the capacities of key institutions, including the Kenya Industrial Property Institute (KIPI), the Copyright Board of Kenya (KECOBO), the National Research Fund (NRF), the Anti-Counterfeit Authority (ACA), the Kenya National Innovation Agency and the National Research Fund, and the Kenya Plant Health Inspectorate Services (KEPHIS). These bodies will play critical roles in coordinating efforts to protect intellectual property while promoting research, innovation, and technology transfer.

Furthermore, the policy prioritizes capacity building and awareness initiatives aimed at educating stakeholders including researchers, entrepreneurs, small and medium enterprises (SMEs), enforcement agencies, and the public—about intellectual property rights. By increasing awareness and understanding of IPRs, the policy empowers these groups to effectively utilize IP as a tool for innovation. It also addresses enforcement challenges by proposing strategies to combat piracy, counterfeiting, and other forms of infringement through enhanced coordination among enforcement agencies. Recognizing the importance of inclusivity, the policy aims to empower youth, women, and marginalized communities to actively participate in IP creation and commercialization. Finally, it promotes regional cooperation with neighboring countries and alignment with international treaties to facilitate trade opportunities while ensuring access to essential IP-related information through databases and information-sharing platforms. Collectively, these efforts will contribute to building a robust intellectual property ecosystem that supports sustainable economic development in Kenya.

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## CHAPTER TWO

### SITUATIONAL ANALYSIS

#### 2.1 Introduction

The national IP system plays a pivotal role in supporting Kenya's transition to a knowledge-based economy and in realizing the goals set under Vision 2030, Sustainable Development Goals (SDGs) and the Science, Technology and Innovation (STI) Policy. This situational analysis provides a foundation for evidence-based policy interventions aimed at strengthening IP administration, use, and enforcement. It integrates perspectives from domestic agencies and international partners.

#### 2.2 Legal framework for the protection of intellectual property rights

Strengthening the legal framework involves enhancing existing IP laws and regulations and developing new laws to align with international best practices to ensure comprehensive protection of intellectual property assets. Kenya has made significant progress in developing a legal framework for intellectual property (IP) protection. Key statutes include the Industrial Property Act (2001), the Copyright Act (2001, revised 2022), the Seeds and Plant Varieties Act (Cap 326), Anti-counterfeit Act (Cap. 510) and the Traditional Knowledge and Cultural Expressions Act (2016). These laws collectively address patents, trade marks, utility models, industrial designs, copyrights, plant breeders' rights, traditional knowledge and cultural expressions, and genetic resources. This sub-section briefly provides information on successes realized and challenges that need to be addressed to strengthen the legislative framework.

- a. Industrial property rights:** Kenya has the Industrial Property Act 2001 (revised in 2012, 2017), which protects patents, utility models and industrial designs. Additionally, there is the Trade Mark Act (Cap 506), which protects trade marks and service marks. However, the following challenges have been identified. First, the Industrial Property Act 2001 (revised in 2012, 2017), has not adequately incorporated flexibilities under the TRIPS agreement. There is need to streamline the procedures for granting licenses, make the processes for access to pharmaceutical products in cases of emergencies faster, broaden the grounds for issuing compulsory licenses, strengthen the definition of public interest use and ensure the fair compensation rules are flexible. Furthermore, there is need to clearly define the research exception clause, clearly provide for the bolar exception to facilitate early preparation of generic medicine and address the issue of pre-grant oppositions to prevent the grant of low quality patents. Secondly, the 2001 Act does not provide for artificial intelligence solutions, as well as software/computer technologies. Thirdly, the Trade Mark Act (Cap 506) does not provide for non-traditional trade marks such as scent, smell, and motion marks, in line with international best practices. Additionally Kenya does not have laws on geographical indications and trade secrets.
- b. Copyright and related rights:** Kenya has comprehensive protection of copyrights and related rights through the Copyright Act, No. 12 of 2001 (revised in 2022); the Copyright Regulations (2020), the Copyright Tribunal Regulations (2022) and the Copyright and

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Related Rights Amendment Bill (2025). Despite these achievements, the existing legislation and regulations do not adequately provide for the management of digital rights, guidance on legal and infrastructure needs for AI-generated works, and training data using copyrighted materials.

- c. *Plant Variety Rights:*** The protection of plant varieties is guided by the Seed and Plant Varieties Act (Cap 326) as well as the Plant Breeder's Rights Regulations. The Plant Breeder's Rights Regulations 2022 are currently under review to promote an effective system of plant variety protection, with the aim of encouraging the development of new plant varieties for the benefit of society. The Plant breeders rights regulation 1994, is now over 20 years old and needs to be revised or updated to take into consideration the impact of emerging technologies on the development and protection of new plant varieties and also align to the International and Regional Intellectual Property Framework to which Kenya is a party.
- d. *Traditional Knowledge and Cultural Expression:*** The Kenya Traditional Knowledge and Cultural Expression Act of 2016 establishes a framework for safeguarding and enhancing TK and TCE in Kenya. The Traditional Knowledge and Cultural Expressions Act (2016) empowers KECOBO to manage rights and maintain a national repository, while EMCA regulations provide access and benefit-sharing frameworks. Kenya also participates in piloting the Traditional Cultural Expressions (TCE) Notification System, enabling communities to voluntarily express interest in safeguarding their TCEs. However, the draft regulations to operationalize the Act have not been finalized, which means that the Act cannot be implemented. Furthermore, the requirement of the Act that every county government establishes and maintains a register on TK and TCE has not been well publicized, and as a result, many counties have not established registers.
- e. *Genetic Resources:*** The protection of genetic resources is guided by the Environmental Management and Coordination Act, Cap 387. There are also the Environmental Management and Coordination Regulations of 2016 which govern access and benefit-sharing of genetic resources in Kenya. However, the impact of the implementation of these regulations has not been documented.
- f. *Compliance with international obligations:*** Kenya is a party to key international treaties, including the Paris Convention, TRIPS Agreement, Patent Cooperation Treaty (PCT), Berne Convention, Marrakesh Treaty, Beijing Treaty on Audio-Visual Performance, Convention on Biological Diversity, Patent Law Treaty, Singapore Treaty, and the UPOV Convention and the Nagoya Protocol. However, the country struggles to fully implement TRIPS flexibilities due to limited technical capacity and institutional coordination. Furthermore, Kenya has not acceded to some key international intellectual property treaties. For instance, although the Budapest Treaty is listed among the WIPO-administered treaties, Kenya has not formally acceded to it. Additionally, Kenya is a signatory to but has not ratified several key international IP treaties, including the Locarno. This situation mirrors Kenya's status with copyright and related rights treaties, as it is yet to ratify certain agreements e.g. the WIPO Copyright Treaty (WCT) and the WIPO Performances and Phonograms Treaty (WPPT). Addressing this gap would provide a more comprehensive and coherent IP policy framework, aligning Kenya's commitments with international standards and enhancing its ability to fully benefit from multilateral IP systems.

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- g. Kenya Intellectual Property Authority Bill 2025:** The Kenya Intellectual Property Bill 2025 aims to consolidate Kenya’s IP laws and merge KECOBO, ACA, and KIPI into the Kenya Intellectual Property Authority (KIPA). Its objective is to streamline administration, enhance coordination, and improve enforcement of intellectual property rights through a unified agency. It is imperative that this policy explicitly reflect this objective. Realizing that such a reform would require targeted legal, institutional, and administrative actions. Accordingly, any related interventions within the IP system should be aligned with this overarching policy direction. Currently, this intent is not clearly articulated within the existing institutional landscape.
- h. The EAC Anti Counterfeit Policy and Bill:** The Bill has been developed and is under deliberations. It seeks to offer a harmonized framework for IP protection and enforcement within the eight members of the EAC region and create a regional legal framework against counterfeiting, piracy, and other IP rights violations, aiming to coordinate efforts against these issues in the region.

### **2.3 Institutional Framework for the Protection, Management, and Administration of intellectual property rights.**

The following are the institutions responsible for the protection, administration and enforcement of intellectual property rights in Kenya, Kenya Industrial Property Institute (KIPI), the Kenya Copyright Board (KECOBO), Anti-counterfeit Authority (ACA) and the Kenya Plant Health Inspectorate Services (KEPHIS). This section highlights their strengths and challenges.

#### **2.3.1 Kenya Industrial Property Institute**

The Kenya Industrial Property Institute (KIPI) operates as a semi-autonomous state corporation under the Ministry of Investments, Trade and Industry (MITI), playing a crucial role in safeguarding industrial property rights in Kenya. KIPI commenced operations in 2002 with the enactment of the Industrial Property Act, 2001. Previously, the Institute existed as the Kenya Industrial Property Office (KIPO), which was established in February 1990 after the enactment of the Industrial Property Act, CAP 509. KIPI's mandate as provided for under the Industrial Property Act and the Trade Marks Act is to promote inventive and innovative activities, facilitate the acquisition of technology through registration and regulation of patents, utility models, technovations, industrial designs and trade marks. The function of the Institute as provided for under the Industrial Property Act (Section 5) as follows:

- i. Consider applications for, grant and registration of industrial property rights;
- ii. Screen technology transfer agreements and licences;
- iii. Provide to the public, industrial property information for technological and
- iv. economic development;
- v. Promote inventiveness and innovativeness in Kenya; and
- vi. Organize and conduct training, competitions and awards relating to industrial property matters.

In addition, KIPI is governed by a Board. This enables KIPI to have more control over its operations and resources. KIPI also has an Industrial Property Tribunal, created by the

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Industrial Property Act 2001, which evaluates and determines appeals against the decisions of the Managing Director of KIPI. It deals with disputes involving patents, industrial designs, utility models, and technovations, and plays a crucial and complementary role in the promotion of inventive and innovative activities by ensuring the protection and enforcement of IPRs.

Since its establishment in 2002, the Kenya Industrial Property Institute (KIPI) has become one of Sub-Saharan Africa's most established IP offices. With 85 staff against an approved 173 positions. KIPI is also among the few African offices—alongside Egypt—that conduct both formality and substantive examinations of patents, industrial designs, and trade marks. Since 2002, KIPI has operated the Industrial Property Administration System (IPAS). A 2017 digitization initiative processed over 54,000 files and 1.1 million images. The ARIPO-KIPI Data Link further enhances international data exchange. KIPI is a designated receiving office for ARIPO and WIPO applications under the Patent Cooperation Treaty (PCT) and the Madrid System. As of 2025, Kenya has recorded a total of 142,515 Trademark Applications.

Despite the above mentioned successes, several challenges still persist. First, the current automation infrastructure has not kept pace with advancements in technology. Secondly, whereas KIPI has an approved establishment of 173 staff, only 85 staff are in post. This limits its capacity for service delivery. Thirdly, currently, KIPI's operations are centralized in Nairobi, which is a major shortcoming. While the institute has begun offering its services through the online platform, there is a need for a nationwide presence to facilitate the protection of innovations at the county levels. As a result, KIPI is planning to have 6 regional offices in the next 5 yrs and currently. All KIPI services are paid through the e-citizen platform. Fourth, many individuals and businesses, especially SMEs, face barriers in accessing legal assistance for intellectual property matters, particularly patent drafting, which can impede their ability to navigate complex IP regulations and protect their innovations effectively.

### **2.3.2 Kenya Copyright Board**

The Kenya Copyright Board (KECOBO) is a state corporation operating under the Ministry of Gender, Culture, The Arts, and Heritage. It was established pursuant to Section 3 of the Copyright Act, No. 12 of 2001 (Revised in 2022), Laws of Kenya, with the mandate to administer and enforce copyright and related rights within Kenya, as well as to license and oversee the operations of collective management organizations. This semi-autonomous agency is governed by a Board of Directors, with the Executive Director serving as its Secretary. The government plays a pivotal role in facilitating KECOBO's mandate through the provision of resources and legislative support, among other contributions. KECOBO predominantly relies on government funding, with nearly full dependence on this source. Additionally, it generates internal revenue through the licensing of collective management organizations, copyright registrations, training initiatives, court-imposed fines, out-of-court settlement fees, and research and consultancy services. This increased financial support has enabled KECOBO to expand its operations and pursue its strategic objectives more efficiently by establishing strong partnerships and collaborations with a wide range of stakeholders at different levels.

Amongst the achievements of KECOBO are the following: First, KECOBO has advanced copyright administration through the launch of the National Rights Registry (NRR), enabling digital registration, tracking, and authentication of copyright works. Its 2023–2027 plan

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emphasizes complete automation and integration with e-citizen services. Secondly, strategic partnerships have expanded, with Memorandums of Understanding signed with key institutions such as KFC and PPMC. Finally, human capital has been steadily growing since 2001, with 46 staff currently employed out of an approved 119, showcasing continuous efforts to enhance institutional capacity. Finally, KECOBO, which emerged as a modest division under the Registrar General within the State Law Office in 2008/2009, initially functioned with a budget allocation of Kshs. 30 million for salaries and operational expenditures. This figure has since escalated to Kshs. 132 million in the fiscal year 2021/2022.

Despite these achievements, KECOBO continues to encounter notable challenges. Financial flexibility and independence are constrained by limited funding and an over-reliance on government support. Severely understaffed, the organization's ability to enforce copyright laws and manage operations is impacted. The lack of regional offices limits KECOBO's reach and impact at the county levels. Inadequate infrastructure, such as office space, transport, and ICT tools, further hinders operational efficiency. Limited research capacity hampers the organization's ability to conduct studies informing policy and adapting to emerging trends. Additionally, public and stakeholder awareness of copyright laws remains low, weakening enforcement efforts and contributing to widespread piracy and intellectual property violations across the country.

### **2.3.3 Kenya Plant Health Inspectorate Services (KEPHIS)**

The Kenya Plant Health Inspectorate Service (KEPHIS), established under the KEPHIS Act No. 54 of 2012, is Kenya's national regulatory body for plant protection, seeds, and plant varieties. Its core mandate is to assure the quality of agricultural inputs and produce, positioning it as the National Plant Protection Organization (NPPO), the National Designated Authority on Seed Quality, and the National Plant Breeders' Rights (PBR) Office. Through enforcing key laws like the Plant Protection Act (CAP 326) and the Seeds and Plant Varieties Act, (CAP324), KEPHIS has successfully transformed the agricultural sector by enhancing quality assurance of seeds, protecting against the introduction and spread of pests and diseases, and facilitating market access for Kenya's agricultural exports via phytosanitary certification.

Furthermore, the PBR framework, which encourages agricultural innovation by safeguarding breeders' rights, is administered by KEPHIS. The legislation for the protection of plant varieties is contained within the Seeds and Plant Varieties Act (1972), which became operational in 1975 and was subsequently reviewed in 1991 and 2012. Official regulations to guide the implementation of Plant Variety Protection (PVP) services were instituted in 1994, with the PVP administration office established in 1997 and fully functioning under KEPHIS since 1999. This framework includes the operation of the Seeds and Plants Tribunal for dispute resolution.

Since its establishment, the Kenya Plant Health Inspectorate Service (KEPHIS) Plant Variety Protection (PVP) Office has grown into one of Africa's most established IP offices. This achievement is underpinned by the operationalization of six DUS (Distinctness, Uniformity, and Stability) testing centers spread across the country and a fully functional PBR (Plant Breeders' Rights) registry. KEPHIS has embraced digitalization, streamlining all its processes to ensure service delivery is easily accessible, fast, cost-effective, convenient, and efficient. All KEPHIS services are paid for through the e-citizen platform, and the institution operates

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the seed certification and plant variety protection system and UPOV PRISMA automated system, which facilitates the online application process for PBR applicants and provides seamless access to relevant databases. KEPHIS is governed by a competent board of experts in agriculture and intellectual property, and it maintains high standards of governance, auditing, and financial management. It is funded through a combination of government allocations and service fees, with a 2023/2024 budget of Kshs. 1.735 billion, ensuring the institution's accountability, autonomy, and continued advancement in plant health regulation and innovation within Kenya.

Despite these significant achievements, KEPHIS faces several limitations that hinder its full operational effectiveness. The institution has an approved establishment of 975, only 422 staff are in place. This personnel shortage is coupled with inadequate infrastructure and equipment, particularly for specialized testing of varieties such as ornamentals. This limits its capacity for service delivery. Furthermore, the current automation infrastructure has not kept pace with advancements in technology. Limited research capacity hampers the organization's ability to conduct studies informing policy and adapting to emerging trends. Additionally, public and stakeholder awareness of plant variety protection remains low. Critically, weak enforcement and low penalties for PBR violations discourage investment, compromising the very innovation the organization is mandated to protect.

#### **2.3.4 Kenya Anti Counterfeit Authority**

The Anti-Counterfeit Authority (ACA) was established under the Anti-Counterfeit Act, Cap 510 and became operational on 1st June 2010. It is a semi-autonomous government agency mandated to raise public awareness on counterfeiting, combat counterfeit trade in Kenya, devise and promote training programs, coordinate with organizations involved in combating counterfeiting, advise the government on policies and measures concerning combating counterfeiting, and carry out research into matters relating to counterfeiting. In 2019, ACA's legal status was strengthened through amendments that transformed it from an agency to an authority, followed by the drafting of the Anti-Counterfeit (Amendment) Regulations, 2019.

The Anti-Counterfeit Authority (ACA) has made significant progress in improving intellectual property enforcement in Kenya. It successfully decentralized its operations to key entry points, including JKIA, Eldoret airport, and seven land border stations, leading to the seizures of counterfeit goods worth over Kshs. 4.2 billion from the market and destroyed counterfeit goods worth Ksh 1.6 billion. The Authority has received 6400 consumer complaints and 4560 IPR complaints. An estimated 80 per cent of the complaints have been successfully resolved through compounding. Another 464 cases have been registered in court with a 70 per cent prosecution success rate. The Authority has also generated some statistics on the levels of counterfeiting and public awareness on matters counterfeiting through several internal research surveys carried out over a number of the years as well as contracted national research surveys carried out in 2020 and 2024. The 2020 national baseline survey provided crucial data on the magnitude of illicit trade in Kenya.

The Authority has introduced the Kenya Recordation System under the Anti-Counterfeit Integrated Management System (AIMS) to strengthen the country's framework for combating

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counterfeiting and protecting intellectual property rights (IPRs). The Recordable and Import Permit Approval System is a core component of AIMS designed to facilitate the registration and verification of intellectual property rights for imported goods. By enabling rights holders to record their trademarks and related information with ACA, the system enhances the detection, profiling, and interception of counterfeit goods at points of entry into the country. This proactive measure supports collaboration with customs and other border agencies, ensuring that only legitimate goods access the Kenyan market. Moreover, the implementation of the Anti-Counterfeit Integrated Management System (AIMS) has streamlined internal processes related to recordation, import control, case management, and depot operations, leading to a significant enhancement in efficiency and service delivery. Furthermore, ACA improved its operational capacity by acquiring two depots in Nairobi for secure storage of seized goods.

Currently ACA is operating with 109 staff. However, the Authority is expanding its capacity to meet the staffing requirements outlined in its 2022–2027 Strategic Plan. The authority is underway in establishing the AntiCounterfeit forensic laboratory to enhance the authentication and to support investigation and prosecution.

Despite its progress, ACA faces increased counterfeit volumes, limited public awareness, insufficient funding, weak inter-agency collaboration, stakeholder resistance, inadequate personnel capacity in skills and numbers, limited data, and slow adaptability to market changes—all of which hinder effective enforcement and strategic response.

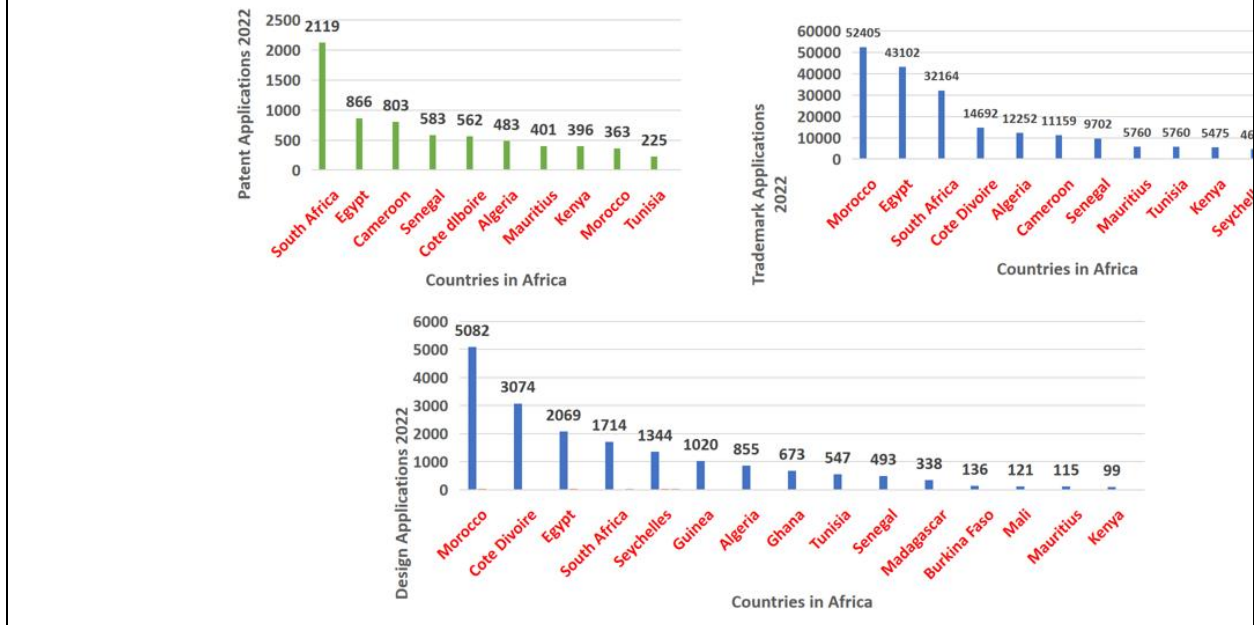
## **2.4 Generation of intellectual Property Rights**

### **2.4.1 Applications for patents, trademarks and industrial designs**

Over the past decade, Kenya has exhibited promising trends in intellectual property (IP) filings, especially in patents and industrial designs.

- **Patents:** Patent applications rose from 181 in 2013 to a high of 424 in 2020, experienced a slight decline during the COVID-19 pandemic in 2021, and recovered to 396 by 2022. In 2023, Kenya ranked 66th globally and first in East Africa for patent filings, with 390 total applications—363 of them from local residents—accounting for over half of the region’s total. However, patent filings per capita and per GDP remain modest, and participation from universities and women inventors is still low, with only 5.6% and 21.9% representation, respectively.
- **Trademarks:** trademark applications have fluctuated more significantly. Starting from a low of 280 in 2013, they reached a peak of 6,943 in 2019, with an average of 2,700 per year. In 2023, Kenya submitted 6,022 trademark applications, ranking 84th globally and 5th in Africa. Notably, 96% of these applications were filed by residents, showcasing a strong domestic utilization of IP systems, although overall efficiency remains low relative to the country’s population and GDP.
- **Industrial designs:** For industrial designs, Kenya experienced a rise in applications from 79 in 2013 to 223 in 2020, followed by a decline to 99 by 2022. In 2023, Kenya ranked 98th globally and 4th in East Africa, with 92% of the applications filed by residents, suggesting a healthy level of local engagement in design protection.

**Figure 2.4. Kenya's performance in terms of local residents' applications**



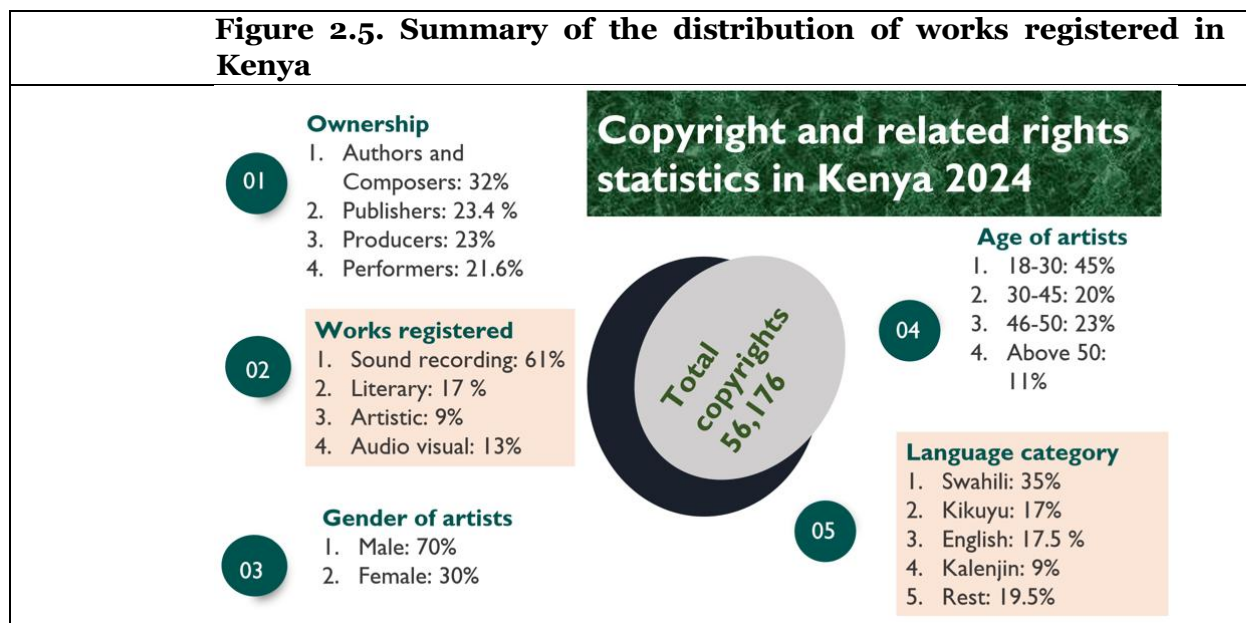
One significant factor contributing to the increase in patent and utility model filings has been the establishment of 19 Technology and Innovation Support Centres (TISCs) nationwide, with 10 in universities and 5 in Technical and Vocational Training Institutes. These centres, established through a collaboration between the Kenya Industrial Property Institute (KIPI) and the World Intellectual Property Organization (WIPO), provide access to technical knowledge and IP databases, thus fostering innovation.

Despite these achievements the following challenges persist: First, only 5.6% of patent applications in 2023 originated from universities and research institutions. There is a need to encourage and support university-led innovation and patenting through IP awareness programs, research grants, commercialization support, and filing incentives. Secondly, only 21.9% of patent applications involved women inventors. Inclusive innovation policies are needed to support women's participation in science, technology, engineering, and IP, including training, funding access, and mentorship. Thirdly, despite regional leadership in filings, Kenya's patent and trademark applications per capita and per GDP are still low. National innovation infrastructure should be expanded, and incentives created for SMEs and grassroots innovators to engage in IP protection. Fourth, trademark applications have shown wide year-on-year fluctuations. This reflects instability in the business and brand protection environment. Greater trademark awareness and more streamlined, affordable registration processes are necessary. Fifth, TISCs, crucial for supporting local innovation, face challenges due to inadequate funding, staffing, and institutional support.

**2.4.2 Copyright and Related Rights Statistics**

As of 2024, KECOBO had registered over 56,176 copyrights, marking significant growth in copyright protection in Kenya. Kenya is among the few African WIPO member states to conduct a study on the economic contribution of copyright-based industries. The 2010 study found these industries contributed 5.32% to GDP and 3.26% to national employment, raising KECOBO's profile and budget. However, the data is outdated. The 2024 Economic Survey reports that the Arts and Entertainment sector alone contributed 0.6% to overall economic growth and 0.2% to nominal GDP, with a 14% growth rate, suggesting that copyright's economic impact may now be higher. A new study is urgently needed to provide updated data to guide policy and investment in Kenya's creative economy. Therefore this justifies investment in such a study to address this gap.

**Figure 2.5. Summary of the distribution of works registered in Kenya**



### 2.4.3 Plant Breeders Rights Statistics

The impact of Plant Variety Protection (PVP) in Kenya is clearly visible across the horticultural, industrial, and food crop sectors. This system, managed by the Kenya Plant Health Inspectorate Service (KEPHIS), was established to encourage plant breeding for societal benefit by protecting breeders' rights, helping them recover investment costs, and stimulating the development of new varieties.

PVP has been a significant driver of economic growth. For instance, 70% of all applications for plant breeders' rights are for horticultural crops. This has led to the introduction of elite varieties by top global horticultural breeders, resulting in increased productivity and boosting horticultural exports to a value of KES 157 billion in 2023. The sector's direct impact on employment is substantial, providing jobs for over 500,000 Kenyans directly and over 2 million indirectly.

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In the industrial crops category, which accounts for 9% of applications, tea is the leading crop with a strong breeding program. Tea exports alone earned Kenya KES 182 billion in 2023. However, the percentage of PVP filings for industry crops remains very low.

For food crops, PVP has spurred research, leading to the annual commercial release of an average of 35 varieties, of which 30% are climate-smart varieties. A clear example of this is the potato sector, where the number of varieties available increased by a massive 326% between 2013 and 2023, including top varieties sourced globally. Furthermore, the system has promoted the introduction of new crops like safflower, teff, castor, and rangeland grasses, increasing agricultural diversity. Not all the food crops released for commercialization are protected. This has contributed to a low percentage of PVP application for food crops.

The implementation of PVP services has fundamentally strengthened collaboration between local and international breeders. This has facilitated capacity building, funding, germplasm exchange, and the commercialization of foreign varieties in Kenya. By December 2024, a total of 2,172 PVP applications had been received. The majority, 71%, originated from foreign breeders, while only 29% were from local applicants. Among local applicants, public institutions dominated at 77%, highlighting their pivotal role in plant breeding research compared to private institutions at 23%.

In terms of commercial focus, cash crops represented 64% of all applications, while food crops accounted for 36%, indicating the system's commercial orientation. It's notable that over 55% of foreign breeder applications were concentrated in ornamental plants, which significantly contribute to foreign exchange earnings and employment.

The PVP system has been crucial in stimulating the growth of Kenya's seed industry, evidenced by a rising number of registered seed merchants. Access to superior varieties has driven growth, with the volume of seed produced and the number of seed companies increasing by 47% and 33%, respectively, between 2013 and 2023. Beyond trade, the PVP framework directly supports food security and farm productivity by delivering improved, high-yielding, and climate-resilient crops, enhancing agricultural innovation and farmer livelihoods.

Despite the impact of the PVP System, there exist a number of challenges including, low domestic participation and insufficient national investment. Specifically, a significant gap exists in local breeder engagement, as only 29% of all PVP applications in 2024 originated from Kenyan breeders. This necessitates immediate action to encourage and financially support local innovation through targeted IP awareness programs, dedicated research grants, and filing incentives to reduce the cost burden on domestic innovators. Furthermore, the local breeding landscape is imbalanced, with public institutions heavily dominating: only 23% of local-led protected varieties involved private breeders. Streamlining the PVP system to actively encourage private domestic investment is essential to commercialize research and bridge the gap between public innovation and market availability. Finally, the overall volume of annual applications remains low compared to other UPOV member countries, indicating a failure to fully leverage the potential of the system. To address this, Kenya must expand its national innovation infrastructure and create robust incentives that specifically target and support grassroots innovators and farmer-led breeding initiatives to engage formally in IP protection.

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## **2.5 IP Training and Education**

Kenya has made commendable progress in promoting intellectual property (IP) education and training through various academic and institutional initiatives. Universities such as the University of Nairobi, Kenyatta University, JKUAT, and Strathmore University offer specialized IP courses within their law, commerce, and innovation programs. National IP offices—KIPI, KECOBO, ACA, KENIA and KEPHIS—also conduct targeted seminars and capacity-building workshops for researchers, artists, legal professionals, customs officials, and law enforcement agencies. KIPI has been spearheading the co-ordination of the World Intellectual Property Day Celebrations by conducting IP trainings on every Intellectual Property day followed by a high level conference and panel discussions by all IP offices in Kenya. The Anti-Counterfeit Authority has developed a custom-made curriculum on IP that will be the backbone for any education programs for law enforcement actors, consumers and IPR owners. ACA also conducts periodic product identification and knowledge training for law enforcement agencies. It has also carried out training programs for various stakeholders including the judicial staff, prosecutors, police, etc. KECOBO has collaborated with global partners including WIPO, Microsoft, and the U.S. and Korean embassies, to train over 600 police officers and 200 magistrates and judges. These efforts have led to improved prosecution and increased convictions for copyright and trade mark infringements. KECOBO is also working with the Kenya Institute of Education to introduce an IP curriculum. Further KECOBO has partnered with the Inspector General of Police to train Police Training Colleges on issues related to Copyright and Related rights. So far KECOBO has trained 150 course men for the past two years (2024-2025). Over the past financial year 2024-2025 KECOBO trained a total 2500 creatives of 470 police officers drawn from different police stations within six counties. KIPI has developed a standardized IP Training Manual that is now operational. This enhances uniformity and accuracy during IP trainings

Despite these achievements, the reach remains limited. IP training is concentrated in a few institutions and lacks presence in most universities and TVETs. The growing demand for IP expertise is unmet, and the absence of a dedicated IP Academy in Kenya restricts the scale and quality of national IP education and professional development.

## **2.6 IP Awareness and Outreach**

Kenya has made significant progress in promoting intellectual property (IP) as a tool for economic development and poverty reduction. ACA has continued to enhance IP awareness with significant progress. With the support of development partners such as the US Embassy in Nairobi, ACA has carried out public outreach activities on matters health and safety through initiatives such as fagia bandia, leading to an increase in the levels of public awareness. ACA's recent research (2025) on consumer awareness found that the levels of awareness have improved from 66 percent to 83 percent in most urban areas. In seeking to enhance IP awareness and outreach, the Anti-Counterfeit Authority conducts ASK shows, roadshows, and town hall meetings to raise awareness of counterfeiting. It also sensitizes the public through public barazas as well as students in learning institutions on the importance of IP protection and enforcement and the measures they need to take to safeguard their innovations. In a bid to enhance inter-agency collaboration in enforcement and public awareness, the ACA spearheaded the development of the national action plan and implementation framework to

combat illicit trade (NAPCIT), 2019-2022. This national plan established strategies on enforcement, public awareness and research on counterfeit matters.

KIPI has enhanced public awareness of IP rights by organizing training programs, exhibitions, conferences, and workshops with government support. It also supports annual student science and technology congresses in secondary schools. A 2015 KIPI survey showed a 13.1% increase in national IP awareness, which contributed to a rise in IP applications. KECOBO uses newsletters, media, and public education to promote copyright awareness. Further, Over the past one financial year (2024-2025) KECOBO trained over 1500 police officers and over 2500 Creatives across 6 counties in Kenya on Copyright and related rights and a total of over 5000 Copyright stakeholders in Kenya.

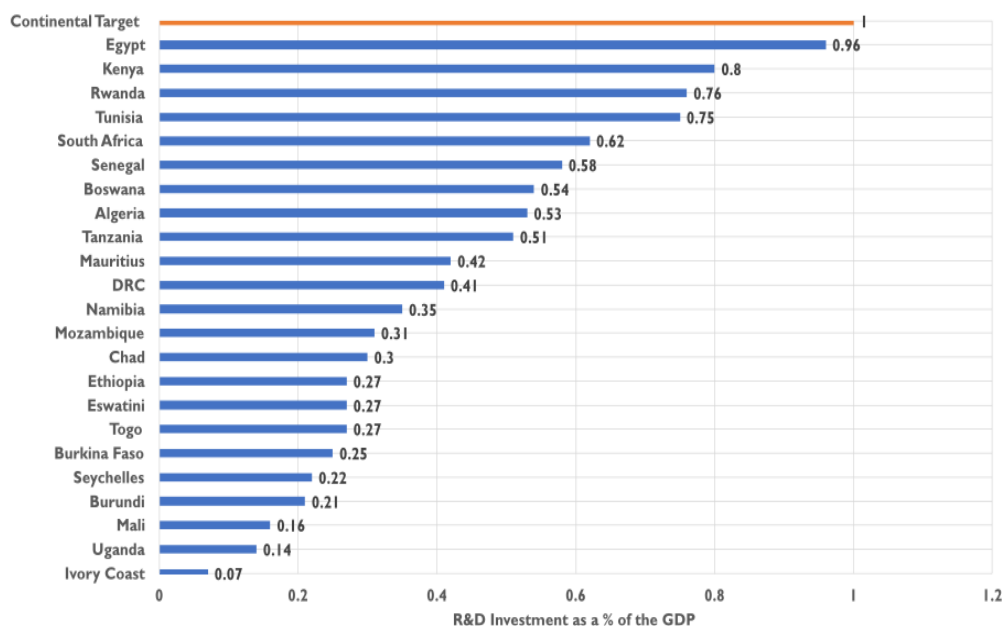
Despite these achievements, the absence of a national IP coordination framework and budget has led to fragmented outreach efforts. Without coordination and budget, the overall impact of these initiatives is reduced, highlighting the need for a unified, strategic approach to nationwide IP awareness, outreach and public engagement.

## 2.7 Funding of R&D and protection of intellectual property assets.

### 2.7.1 National Research Fund (NRF)

Kenya's investment in Research and Development (R&D) stands at 0.8% of its GDP, which, although placing it second in Africa after Egypt (0.96%), falls short of both the African Union's 1% target and Kenya's own 2% target set by the Science, Technology, and Innovation (ST&I) Act of 2013.

**Figure 2.7: Investment by selected African countries in R&D as a % of the GDP**



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The National Research Fund (NRF), established under this Act, is mandated to mobilize and manage financial resources to support the advancement of science, technology, and innovation. Despite the statutory provision that NRF should receive 2% of GDP annually, the actual allocation remains at 0.8%. Since its establishment in 2013, NRF has significantly expanded its support for research. Annual allocations increased from KES 300 million in 2013/14 to KES 1.5 billion in 2021/22. The fund offers competitive research grants, matching grants, and institutional support for national research priorities. These mechanisms have enabled critical research aligned with Kenya's development goals. However, NRF is not the sole source of research funding. Ministries, private sector actors, philanthropic foundations, international donors, and universities also contribute to the national research ecosystem, providing additional capacity and collaborative opportunities.

### **2.7.2 Sports Arts and Social Development Fund (SASDF)**

The Sports Arts and Social Development Fund (SASDF) was established under the Public Finance Management (Sports, Arts and Social Development Fund) Regulations of 2018. Its mandate includes funding the development and promotion of sports and arts. Key objectives with implications for intellectual property (IP) include supporting talent identification and development in sports and the arts, providing capacity-building programs, promoting the production of cultural and artistic goods, and marketing such outputs locally and globally. In 2023, SASDF was allocated KES 10.4 billion, of which KES 6.3 billion went to the sports sector and KES 324 million to the culture and arts sector. The fund plays a significant role in nurturing creative talent and has strong potential to support IP development by enabling artists and creatives to monetize and protect their works.

### **2.7.3 Talanta Hela Initiative**

The Talanta Hela Initiative is a flagship government program introduced under the Kenya Kwanza manifesto and led by the Ministry of Youth Affairs, Sports and Creative Economy. Its goal is to commercialize youth talent by creating income-generating opportunities in sports and the creative economy. The sports component is implemented by the Kenya Academy of Sports, while the creative segment is supported through a digital hub. This hub enables young creatives, including musicians and filmmakers, to access training, showcase their work, and connect with industry mentors and potential employers. Talanta Hela complements existing efforts to build a vibrant creative industry and supports the broader goals of national IP development.

### **2.7.4 University Funding Board (UFB)**

Established under the Universities Act, 2012, the University Funding Board (UFB) oversees the allocation and efficient use of financial resources in Kenyan universities. In the 2020/2021 fiscal year, UFB allocated KES 79.2 billion to public universities and KES 3.2 billion to private universities. These funds support teaching, research, and infrastructure. Despite its pivotal role, UFB's current funding model does not include targeted support for intellectual property development, commercialization, or technology transfer—areas crucial for driving innovation and knowledge-based economic growth. Addressing this gap could significantly enhance the innovation capacity of Kenyan universities.

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### **2.7.5 Challenges identified in the funding of R&D and IP protection**

Despite progress in training, technology adoption, and global collaboration, several gaps hinder Kenya's innovation and commercialization landscape. The STI (2013) and AU targets of allocating 2% and 1% of GDP to R&D, respectively, remain unmet. Nearly 47% of national R&D funding comes from international donors. Most R&D funding focuses on research, with minimal allocation to innovation and commercialization. There is also no ring-fenced funding at national or institutional levels for IP protection or commercialization. Startups and MSMEs lack financial support to secure their innovations, and the University Funding Board's current model does not prioritize innovation or commercialization as a funding criterion. These limitations significantly affect Kenya's ability to translate research into market-ready solutions.

## **2.8 Institutional support structures and policies for commercialization and technology transfer**

### **2.8.1 Kenya National Innovation Agency**

The Kenya National Innovation Agency (KENIA), established under the Science, Technology, and Innovation (STI) Act, Cap 511, is tasked with coordinating, promoting, and regulating Kenya's National Innovation System. KENIA's mandate includes managing a national innovation fund, supporting innovation incubators and accelerators, facilitating the commercialization of research outputs, and fostering collaboration between academia and industry. Governed by a board and led by a CEO, KENIA has launched several key initiatives to enhance commercialization and technology transfer. These include creating a database of intellectual property (IP) and commercialization experts for universities and research institutions, and establishing the KeNIA Innovation Academy, which has trained over 400 stakeholders through specialized curricula. KENIA also convenes the Commercialization Leaders' Summit, bringing together university leaders to strategize on innovation promotion. The Kenya Innovation Bridge, a digital platform launched in 2021, has connected over 1,000 users and facilitated 60+ partnership discussions. Additionally, the Presidential Innovation Award, is an annual challenge and award system to support innovation, with reach both in the grass root and academia. It has recognized innovators from counties and reaffirmed government's commitment to youth empowerment and entrepreneurship.

Under its Institutional Support Programs, the Agency has championed coordination and collaboration in IP protection and commercialization by developing specialized tools such as the Entrepreneurial Institutions Maturity Framework (EIMF) and the Technology Readiness Levels (TRL) Framework. Additionally, KeNIA is developing a coordination framework for Entrepreneurial Support Organizations (ESOs) to streamline their role in supporting IP commercialization. The Agency has also piloted and validated a Shared Technology Transfer Office (TTO) model as a service to facilitate the commercialization of research outputs across institutions. Furthermore, in collaboration with partners, KeNIA is in the process of establishing a fund to support the commercialization of outputs from early-stage, research-based ventures, thereby accelerating the translation of innovations into market-ready solutions.

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Through these initiatives, KENIA plays a critical role in bridging research and market needs, fostering innovation-led economic growth, and job creation across the country.

### **2.8.2 Collective Management Organizations – Commercialization of Copyright**

Collective Management Organizations (CMOs) are central to the commercialization of copyright in Kenya’s creative industry. Operating as companies limited by guarantee under the Companies Act (Cap. 486), they are regulated by the Kenya Copyright Board (KECOBO) under the Copyright Act. CMOs manage copyright on behalf of rights holders—composers, performers, authors, and publishers—by collecting and distributing royalties. KECOBO plays a regulatory and supervisory role, including licensing CMOs, overseeing tariff setting, and inspecting financial records. Despite this framework, the CMO landscape remains unstable. In 2024, several CMOs lost accreditation. By March 2025, PAVRISK was the only licensed CMO, though it has since ceased functioning. Following court rulings in April 2025, three previously discredited CMOs—MCSK, KAMP, and PRSK—were conditionally re-accredited. The government is exploring a joint collection mechanism to improve efficiency and transparency.

Kenya’s CMOs have made significant progress through training and capacity building supported by KECOBO and WIPO, and the adoption of WIPOCOS software, enhancing royalty management. In 2023, they collectively generated KES 249 million, demonstrating financial improvement. Strategic global collaborations with CISAC and IFPI have boosted licensing standards and transparency. Additionally, CMOs have expanded their scope, promoting inclusivity and broader protection across the creative industry.

Despite these achievements, Kenya’s Collective Management Organizations (CMOs) face several challenges, including data deficiencies that hinder fair royalty distribution and limited IP awareness among creators and users. Digital infringement and technological gaps further weaken enforcement and efficient rights management. Many CMOs lack International Standard Recording Codes (ISRCs) essential for tracking royalties. Government interference and poor governance undermine autonomy and transparency. Additionally, the absence of CMOs for film and visual arts leaves creators in these sectors without effective representation or compensation. The board is in its final stage in the issuance of licensing the CMOS that will be mandated to collect royalty for one year.

### **2.8.3 Kenya Plant Health Inspectorate Services**

KEPHIS plays a crucial role in facilitating the commercialization of plant breeds in Kenya through various strategic initiatives. One key aspect of KEPHIS's involvement is the administration of the Plant Breeders' Rights (PBR) system, which grants breeders exclusive rights over new plant varieties they develop. By providing legal protection and control over commercialization, the PBR system incentivizes breeders to invest in innovation and ensures the sustainable development of new plant varieties<sup>53</sup>. The impact of the PBR system is particularly evident in the floriculture industry, which was valued at USD 861.6 million in 2018 and grew to USD 1.1 billion in 2020. The industry is estimated to employ over 500,000 people directly and impact more than 2 million livelihoods indirectly<sup>53</sup>. Furthermore, KEPHIS collaborates with research organizations, breeders, and the private sector to facilitate the

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development, testing, and commercialization of new plant varieties. These partnerships bridge the gap between research, innovation, and market adoption, ensuring that new plant varieties are effectively introduced and embraced by farmers. As part of its modernization efforts, KEPHIS is working on automating its seed certification and plant variety protection processes. This automation enhances efficiency, traceability, and data management, ultimately supporting the commercialization of new plant varieties.

#### **2.8.4 Technology Transfer Offices**

Technology Transfer Offices (TTOs) play a crucial role in facilitating the commercialization of research and innovations generated in academic and research institutions. At least 20 universities and research organizations today have Technology Transfer Offices in place to support the protection and commercialization of R&D outputs and intellectual property rights, as well as to strengthen linkages with industries. KeNIA has set up TTO under the TTOaas Pilot Project that is validated and due to be scaled, however, the existing TTOs are currently ineffective due to inadequate staffing, inadequate funding, inappropriate skills, wrong placement within the university structure, and unclear career progression guidelines for TTOs Managers.

#### **2.8.5 Innovation Hubs, Incubation Centres, and Acceleration Hubs**

Kenya's startup ecosystem has experienced significant growth over the past decade, with over 1000 startups in various sectors and over 200 innovation hubs, incubators, and accelerators supporting the startups. Nairobi is the hub of the ecosystem, with 58% of startups present and over 70% of the innovation hubs. The main commercialization-related services provided by the hubs are skills development, marketing and networking, mentorship, maker spaces, small-scale manufacturing, prototyping and ideation, research, and market analysis. However, the hubs face a lot of challenges, which include access to funding, skills and capacity building, inadequate recognition by the government, quality of service provision, limited performance measurement and standards, and high concentration in urban areas compared to rural areas.

#### **2.8.6 Policy Framework for Commercialization and Technology Transfer**

Kenya hosts a vibrant ecosystem of 75 public and private universities, along with multiple research organizations and technical institutions. These institutions are increasingly adopting Intellectual Property (IP) policies to promote the creation, protection, and commercialization of IP assets. The policies address crucial issues such as IP ownership, benefit sharing, commercialization rights, management of sponsored and collaborative research, and conflicts of interest. However, implementation remains a challenge; as of 2019, only 14 of 74 higher education institutions had formal IP policies, and most lacked actionable implementation plans.

To strengthen commercialization efforts, the Kenya National Innovation Agency (KENIA) has introduced several strategic tools. These include Guidelines for Commercialization of R&D Outputs, which encourage technology transfer, IP policy development, academia-industry partnerships, and innovation incentives. Additionally, through its Commercialization Support Program, KENIA is helping 12 universities develop institutional commercialization master

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plans to streamline research translation into marketable solutions. KENIA has also issued Guidelines for Coordination and Management of Innovation Hubs, designed to foster collaboration among innovation hubs, research institutions, and industry. These guidelines aim to promote technology transfer, support innovative startups and SMEs, and strengthen the national innovation ecosystem by enhancing coordination and the commercialization of research outputs.

### **2.8.7 Summary of Challenges of Commercialization and Technology Transfer**

Commercialization and technology transfer in Kenya face several critical challenges that limit their full potential. First, the Kenya National Innovation Agency (KeNIA) suffers from inadequate funding and staffing, hindering its ability to meet the rising demand for innovation support services. Secondly, although the Movable Property Security Rights Act (2017) allows intellectual property (IP) to be used as collateral, its practical implementation is limited due to a lack of qualified IP valuation professionals and low awareness among innovators. The lack of institutional IP policies is another major barrier—less than 20% of universities, research institutions, and TVETs have IP policies, and even where such policies exist, implementation is weak. Collective Management Organizations (CMOs) also face structural issues, including insufficient copyright usage data, low IP awareness, infringement challenges, lack of digital systems, governance weaknesses, and the absence of CMOs for the film and visual arts sectors. For startups, limited access to funding, skilled labor, testing and piloting facilities, and incubation or acceleration support further constrain innovation efforts. Additionally, most Technology Transfer Offices (TTOs) in universities are ineffective due to poor staffing, limited budgets, inadequate expertise, poor structural integration, and a lack of clear career paths for TTO personnel. These barriers significantly hinder Kenya’s innovation and commercialization efforts.

## **2.9 Enforcement of Intellectual Property Rights**

### **2.9.1 Anti-Counterfeit Authority (ACA):**

The Anti-Counterfeit Authority (ACA) is the government agency responsible for prohibiting counterfeiting in Kenya. It was established under the Anti-Counterfeit Act No. 13 of 2008 and became operational on 1st June 2010. ACA is a semi-autonomous agency, with its own Board and CEO, who also acts as the secretary to the Board. In 2018, ACA transitioned from an “Agency” into an “Authority” following amendments to the Anti-Counterfeit Act in 2018 which subsequently came into effect on 18th January 2019. In 2019, the Anti-Counterfeit Authority drafted the Anti-Counterfeit (Amendment) Regulations, 2019 to implement the changes in the Act. The Authority has three main functions. It enforces the provisions of the Anti-Counterfeit Act, enlightens and informs the public on counterfeiting issues, and combats counterfeiting in Kenya. Since its establishment, ACA has realized several achievements, these include:

1. **Decentralization:** ACA managed to decentralize its services to cover both the Eldoret airport and JKIA, and 7 designated land border stations (Malaba, Namanga, Busia, Isebania, Lungalunga, Moyale, and Mandera) ensuring that their enforcement activities cover wide areas nationally. With this, they managed to withdraw counterfeit goods worth over Kshs. 1.6 billion from the market.

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2. **Staffing:** ACA currently has a staff force of 109 against an establishment of 250. However, to implement their strategic plan 2002-2027, they will require 436 staff members.

3. **Survey on impact of illicit trade:**

In 2020, the Anti-Counterfeit Authority conducted a National Baseline Survey on Counterfeit and Other Forms of Illicit Trade in Kenya. The 2020 survey revealed that illicit trade in Kenya was valued at KES 826 billion, accounting for 9.3% of GDP—a figure higher than the manufacturing sector’s contribution. The impact on legitimate businesses was severe, with reported sales losses of KES 72 billion in 2018. Investment losses rose significantly, and job losses increased more than fivefold, from around 7,500 in 2016 to over 44,000 in 2018. The government lost KES 153 billion in revenue, mainly due to import-related tax evasion. The creative industry is also heavily affected, losing approximately KES 92 billion annually, including KES 15 billion in music and KES 32 billion in video content. Piracy in this sector has also been linked to organized crime and security threats. These findings underscore the need for stronger enforcement, increased public awareness, and investment in systems that support legitimate trade and protect intellectual property rights.

The ACA conducted another survey in 2024 to establish the level of counterfeiting and the level of public awareness in 4 sectors, namely automotive; pharmaceutical; alcoholic beverages; and energy, electrical and electronics. The results were as follows:

1. Firm-level: The survey reveals that 39% of the firms sell their products online, 71% are aware of counterfeiting in their respective sector, while the average perceived level of counterfeiting stands at 18%. The major factors fueling the demand for counterfeit goods are consumer demand for cheaper products (36%), followed by inadequate enforcement and economic downturn (24% and 23%, respectively).
- 2.
3. , Th consumer-level: The survey reveals the following: 83.9% of consumers are aware of counterfeits being sold in their locality. The awareness level is highest on the agricultural sector (39.5%), followed by alcoholic drinks (36.7%), cosmetics and personal care hygiene (34%), while the lowest level is in tobacco (7.6%), metal and allied (6.7%) and timber, wood and furniture (5.1%). The survey further reveals that brand knowledge (70.87%) and advertisements (54.28%) are the most significant sources informing consumers about counterfeit products. 80.5% of consumers are aware of the negative impact of counterfeiting.
- 4.
5. Consumer behavior: The survey findings show that 60.48% of respondents admitted to purchasing counterfeit goods, either knowingly or unknowingly, in the past 12 months. Consumers also purchased counterfeit goods online. 37.68% of consumers reported that less than 10% of the counterfeit items they bought were sold online. 20.14% of respondents reported purchasing 30% or more of counterfeit goods online, while smaller percentages bought 10-19% (18.72%) and 10-20% (0.24%) online.
- 6.
7. Ability to reconginse counterfeit product: The survey revealed that 69.56% of respondents unknowingly purchased counterfeit goods in the past 12 months, suggesting that identifying genuine products remains a challenge for many consumers, and that there is a high deceptive counterfeit consumption in the Kenyan markets. 42.5% of

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respondents cited low prices as the primary motivator for purchasing counterfeit goods, followed by easy availability (33.7%).

### **2.9.2 Kenya Copyright Board**

Intellectual property (IP) enforcement in Kenya involves a range of stakeholders, including government agencies, law enforcement, rights holders, industry associations, and the judiciary. Effective enforcement relies heavily on coordination, particularly between the Kenya Copyright Board (KECOBO) and the Anti-Counterfeit Authority (ACA). KECOBO leads in enforcing copyright and related rights, especially in cases of digital piracy, while ACA focuses on physical counterfeits, including pirated materials. Recognizing the need for joint action, both agencies have outlined strategies to enhance cooperation—KECOBO through its 2022–2027 Strategic Plan and ACA by reviving the National Action Plan to Combat Illicit Trade (NAPCIT) under the Ministry of Investments, Trade, and Industry. Kenya also engages in regional and international initiatives to bolster IP enforcement. Despite these efforts, coordination remains a significant challenge, often resulting in duplication of roles and enforcement gaps. Strengthening collaboration among agencies, with clearly defined mandates and integrated enforcement frameworks, is critical to achieving a more effective IP protection system in Kenya.

### **2.9.3 Coordination of enforcement of IP rights**

Intellectual property (IP) enforcement in Kenya involves a range of stakeholders, including government agencies, law enforcement, rights holders, industry associations, and the judiciary. Effective enforcement relies heavily on coordination, particularly between the Kenya Copyright Board (KECOBO) and the Anti-Counterfeit Authority (ACA). KECOBO leads in enforcing copyright and related rights, especially in cases of digital piracy, while ACA focuses on physical counterfeits, including pirated materials. Recognizing the need for joint action, both agencies have outlined strategies to enhance cooperation—KECOBO through its 2022–2027 Strategic Plan and ACA by reviving the National Action Plan to Combat Illicit Trade (NAPCIT) under the Ministry of Investments, Trade, and Industry. Kenya also engages in regional and international initiatives to bolster IP enforcement. Despite these efforts, coordination remains a significant challenge, often resulting in duplication of roles and enforcement gaps. Strengthening collaboration among agencies, with clearly defined mandates and integrated enforcement frameworks, is critical to achieving a more effective IP protection system in Kenya.

### **2.9.4 IP skills and awareness of key IP enforcement officials and consumers.**

Both the Anti-Counterfeit Authority (ACA) and the Kenya Copyright Board (KECOBO) play a vital role in training enforcement officers to strengthen intellectual property (IP) protection. ACA has conducted specialized training at the Directorate of Criminal Investigations (DCI) Academy, equipping officers with skills to address counterfeiting and illicit trade. ACA staff have also benefited from the WIPO distance learning program. KECOBO, in partnership with the CID Training School, Microsoft East Africa, and the Kenya Publishers Association, has trained over 600 police officers in investigating and prosecuting copyright infringement. It also runs a training-of-trainers program to expand its reach. In addition to enforcement training, both agencies are active in public education. ACA raised public awareness of counterfeiting

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from 61% to 66%, as per its 2022–2027 Strategic Plan and continues to engage stakeholders through outreach and school programs. KECOBO has conducted multiple copyright awareness campaigns, supported by media and the Partners Against Piracy (PAP), enhancing national understanding of copyright and piracy issues.

### 2.9.5 Tribunals

Tribunals in Kenya are specialized quasi-judicial bodies that derive their mandate from Article 169 of the Constitution of Kenya, 2010, and supplement ordinary courts by resolving disputes in specific areas of law. Three key tribunals deal with intellectual property: the Industrial Property Tribunal, under the Industrial Property Act (2001), resolves disputes on patents, designs, and technovations; the Copyright Tribunal, under the Copyright Amendment Act (2019), addresses copyright disputes involving registrations, Collective Management Organizations (CMOs), and the use of foreign works; and the Seeds and Plant Varieties Tribunal, under the 2012 Act, hears appeals related to plant breeders' rights from KEPHIS decisions. These tribunals offer advantages such as speed, subject expertise, efficiency, accessibility, and less bureaucratic procedures.

### 2.9.6 IP Courts

Kenya does not have specialized IP courts. However, the courts play a crucial role in safeguarding intellectual property rights by resolving disputes related to IP. The courts are designed to handle both civil cases, between two individuals, companies, or organizations, and criminal cases, where the state investigates and prosecutes on behalf of IP owners, such as in cases of trademark counterfeiting or copyright infringement handled by the Anti-Counterfeit Authority and the KECOBO. The courts (e.g. High Court) also hear appeals from the decisions of the tribunals. By providing a forum for resolving IP disputes, the courts contribute to the effective enforcement of IPR, thereby promoting innovation, creativity, and economic growth.

## 2.10 Emerging Issues

1. **Artificial Intelligence and IP:** Artificial Intelligence (AI) is significantly influencing innovation and productivity in Kenya and globally. AI systems, capable of performing tasks requiring human intelligence with minimal intervention, are now used as tools in the invention process. This trend raises complex policy and legal questions about the role of AI in inventorship and necessitates reforms in IP frameworks to address emerging challenges.
2. **Women and IP:** Despite the increasing activity in IP protection in Kenya, women accounted for less than 16% of inventors between 2020 and 2022, highlighting their underrepresentation in innovation. There is also a lack of comprehensive gender-disaggregated data in the industrial property system. Addressing barriers to women's participation is essential to fostering gender equity in IP creation, protection, and commercialization.

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3. **Informal Sector and Intellectual Property:** Kenya’s informal sector, comprising over 7 million enterprises and employing around 16 million people, contributes 32% of GDP. However, IP awareness remains low. Targeted IP training for MSMEs is vital to help entrepreneurs protect their innovations and enhance competitiveness.
  4. **Marginalized Communities and Intellectual Property:** Many marginalized groups lack awareness and understanding of intellectual property rights, which limits their ability to protect and commercialize their innovations and creative outputs. Strengthening IP education and outreach within these communities is therefore essential to ensure inclusivity and equitable participation in the innovation ecosystem.
  5. **Entrepreneurship Education and Intellectual Property:** There is a growing need to strengthen the integration of entrepreneurship education with IP awareness through revised instructional models and the Competency-Based Curriculum (CBC). This will equip learners with essential skills in innovation, enterprise development, and intellectual property management, enabling them to protect their innovations/creations and effectively commercialize their ideas.

## 2.11 Strategic issues requiring policy intervention

### 1. Legal and Regulatory Gaps

While Kenya has a relatively strong IP legal foundation, several critical gaps hinder its effectiveness. The Industrial Property Act does not incorporate necessary TRIPS flexibilities and fails to address emerging issues such as artificial intelligence (AI)-generated inventions and the patentability of software. The Trademark Act excludes non-traditional marks like scent and motion, and there are no specific laws on Geographical Indications or Trade Secrets. Although the Copyright Act is updated, it lacks provisions for digital rights management, AI-generated content, and data training. The Plant Variety Protection regime is outdated and needs updating to reflect advances in biotechnology and crop cycles. Implementation of the Traditional Knowledge and Cultural Expressions Act (2016) is stalled due to missing regulations. Furthermore, Kenya has yet to ratify key international IP treaties, restricting its engagement in global IP systems.

### 2. Institutional and Coordination Challenges

Kenya’s IP institutions—KIPI, KECOBO, ACA, and KEPHIS—operate in silos, leading to duplicated efforts, inefficiencies, and unclear mandates. The proposed Intellectual Property Bill 2020, which aimed to consolidate these into a unified Intellectual Property Agency of Kenya (IPAK), lapsed before implementation in 2020 but has since been reactivated. Reviving this reform and establishing clear roles, accountability structures, and inter-agency coordination mechanisms is critical to improving governance and service delivery in the IP sector.

### 3. Inadequate Funding for R&D and IP Commercialization

R&D investment in Kenya stands at 0.8% of GDP, below both the national (2%) and AU (1%) targets. Almost half of this funding comes from international donors. Most funding supports research, not innovation, commercialization, or IP protection. Institutions like the National

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Research Fund, University Funding Board, and SASDF do not have dedicated allocations for IP-related activities. There is an urgent need for ring-fenced funding for innovation, commercialization, startup support, and IP protection to drive a knowledge-based economy.

#### **4. Weak Commercialization and Technology Transfer Structures**

Although the Kenya National Innovation Agency (KENIA), Collective Management Organizations (CMOs), and Technology Transfer Offices (TTOs) play crucial roles, they suffer from inadequate resourcing, limited expertise, and weak links with industry. CMOs also lack robust governance structures and do not sufficiently support the film and visual arts sectors. Enhancing these institutions through policy reforms, resource allocation, and skills development will be crucial for translating research into innovations ready for the market.

#### **5. Enforcement Gaps and Institutional Capacity**

ACA and KECOBO have made gains in enforcement but are constrained by limited staffing, funding, and inter-agency collaboration. KECOBO's prosecutorial mandate was withdrawn, weakening its enforcement capacity. It is essential to restore legal authority and formalize coordination among enforcement agencies. Capacity building for enforcement officers and the judiciary on IP matters is also urgently needed.

#### **6. Low IP Awareness and Skills**

There is a pervasive lack of IP knowledge among creators, MSMEs, and the general public. Awareness campaigns are fragmented and primarily focused in urban areas. IP education is only available in a few institutions, and no national IP training academy exists. A unified awareness strategy and training is necessary, alongside the creation of a national IP academy.

#### **7. Gender and Informality Gaps in IP Participation**

Women remain underrepresented in innovation and IP, constituting less than 16% of inventors. The informal sector, though contributing 32% to GDP, is largely disconnected from formal IP frameworks. Inclusive policies, encompassing funding, training, and mentorship, are necessary to guarantee fair participation.

#### **8. Need for Emerging Technology Integration**

Kenya lacks policies addressing the intersection of IP and emerging technologies such as AI, blockchain, and digital content. Legal frameworks must evolve to govern AI-generated works, data rights, and digital platforms.

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## CHAPTER THREE

### POLICY STATEMENTS

#### 3.0 Background

The policy statements outlined in this chapter provide the framework through which Kenya will address the challenges identified in the situational analysis and achieve the objectives of the National Intellectual Property Policy . They represent the Government's commitment to strengthen the country's intellectual property system by setting clear directions on priority areas of reform and action.

Each policy statement is informed by existing gaps in the generation, protection, commercialization, and enforcement of intellectual property rights, as well as the need to respond to emerging issues such as digital technologies, artificial intelligence, and the protection of Traditional Knowledge and Genetic Resources. These statements serve as the foundation for strategies that will guide implementation, ensuring that Kenya's IP system is inclusive, future-oriented, and aligned with both national development priorities and international obligations.

#### 3.1 Legal and institutional frameworks for the protection and management of IP rights

##### **Policy Issue 1: Inadequate legal framework for protection, and management of IP rights**

While Kenya has a relatively strong IP legal foundation, several critical gaps hinder its effectiveness. The Industrial Property Act does not incorporate necessary TRIPS flexibilities and fails to address emerging issues such as block chain, biotechnology, artificial intelligence (AI)-generated inventions and the patentability of software. The Trade Mark Act excludes non-traditional marks like scent and motion, and there are no specific laws on Geographical Indications or Trade Secrets. Although the Copyright Act is updated, it lacks provisions for digital rights management, AI-generated content, and data training. Implementation of the Traditional Knowledge and Cultural Expressions Act (2016) is stalled due to inadequate regulations. Furthermore, Kenya is yet to ratify key international IP treaties, restricting its engagement in global IP systems.

##### **Policy Objective:**

To Strengthen legal framework for the protection and management of IP Rights

##### **Policy Statement:**

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The Government shall strengthen and harmonize the legal framework to ensure effective protection, management, and enforcement of intellectual property rights (IPRs) in alignment with national priorities and international obligations.

**Strategies:**

- 3.1.1 Strengthen and update existing IP laws:** Conduct a comprehensive review of existing intellectual property legislations to address emerging trends, technologies, and global standards to ensure that Kenya's IP laws remain relevant and effective.
- 3.1.2 Institutionalize the geographical indications bill:** Expedite the finalization and enactment of the Geographical Indications Bill to support the protection and promotion of products with unique regional attributes, enhancing local economies and cultural heritage.
- 3.1.3 Promote trade secrets protection:** Establish provisions within existing laws to protect trade secrets and undisclosed information, ensuring that confidential business knowledge is safeguarded from unauthorized use or disclosure.
- 3.1.4 Establish national IP laws with international treaties:** Ensure that national intellectual property laws are aligned with key international treaties and agreements, including the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS), the Berne Convention for the Protection of Literary and Artistic Works, and the Swakopmund Protocol on Traditional Knowledge.
- 3.1.5. Strengthen existing legal frameworks to new technological advancements:** Develop guidelines and regulations to address emerging areas of intellectual property such as artificial intelligence, biotechnology, and digital innovations.

**Policy Issue 2: Inadequate Institutional Capacity for the protection and management of IP rights**

Kenya has made significant achievements by establishing semi-autonomous institutions that are responsible for the protection and administration of intellectual property rights in Kenya. These include the Kenya Industrial Property Institute (KIPI), the Kenya Copyright Board (KECOBO) and the Kenya Plant Health Inspectorate Service (KEPHIS). However, currently, these institutions face several capacity-related challenges that negatively impact on their service deliveries. These include inadequate human and financial resources, inadequate inter-institutional coordination, limited level of decentralization of services to the counties, and limited level of automation.

**Policy Objective:**

To strengthen the institutional framework for the protection and management of IP rights

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### **Policy Statement:**

The Government shall strengthen the institutional framework for the effective administration, management, and coordination of intellectual property rights (IPRs) to enhance service delivery and stakeholder engagement.

### **Strategies**

- 3.2.1. Strengthen financial capacities:** Provide adequate financial resources to the three institutions involved in IP protection and administration to enhance their service delivery.
- 3.2.2. Develop Human Resource Capacity:** Invest in human resource development within IP institutions through targeted recruitment, training programs, and professional development initiatives. This will ensure that staff are well-equipped to manage IP rights effectively and address emerging challenges in the field.
- 3.2.3. Decentralize IP Services:** Set up regional IP offices to decentralize services, thereby improving access to IP registration, information, and support services for innovators and businesses across the country. This will help bridge the gap between urban and rural areas in accessing IP resources
- 3.2.4. Promote Digital Transformation:** Leverage digital platforms and automation to modernize IP registration processes, administration, and information dissemination. Implementing an online registration system will streamline operations, reduce processing times, and improve accessibility for users.
- 3.2.5. Establish a National IP Coordination Office:** Create a centralized National IP Coordination Office tasked with harmonizing intellectual property activities, policies, and strategies across various government agencies and stakeholders. This office will serve as a focal point for IP management, facilitating collaboration and communication among institutions.

By implementing these strategies, the Government of Kenya aims to create a cohesive institutional framework that effectively administers and manages intellectual property rights. This framework will not only enhance service delivery but also promote innovation, protect creators' and inventors' rights, and contribute to sustainable economic development in Kenya.

### **3.3. Generation and Protection of Intellectual Property Rights**

#### **Policy Issue 1: Low level of generation and filing for patents, utility models and industrial designs.**

While in the past decade Kenya has exhibited promising trends in IP filings especially of patents, utility models and industrial designs, globally Kenya is lagging, ranking 66th globally

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in 2023 and patent filings per capita and per GDP remain modest, and participation from universities and women inventors is still low, with only 5.6% and 21.9% representation, respectively. This is attributed to inadequate funding for innovation, limited use of patent information for innovation, low incentives for protection, limited access to drafting services and absence of IP Management offices in universities and research organizations.

**Policy Objective:**

To Enhance the generation and protection of IP assets

**Policy Statement:**

The Government shall promote the generation, protection, and registration of industrial property rights (IPRs) to foster innovation, creativity, and competitiveness across various sectors of the economy.

**Strategies:**

- 3.3.1. Promote Incentives for Innovation:** Implement funding mechanisms and incentives to support research, innovation, and creativity in universities, research institutions, micro, small, and medium enterprises (MSMEs), and the creative industries. This will encourage the development of new ideas and technologies.
- 3.3.2. Facilitate the protection and management of intellectual property assets:** Support the establishment of Intellectual Property Management Offices (e.g., Technology Transfer Offices) within academic and research institutions. These offices will facilitate the protection, commercialization, and management of intellectual property assets.
- 3.3.3. Enhance Technology and Innovation Support Centers (TISCs):** Strengthen the capacity of Technology and Innovation Support Centers to provide innovators and researchers with access to essential IP services, patent databases, technical support, and guidance on navigating the IP landscape effectively.
- 3.3.4. Support Participation of underrepresented groups:** Develop targeted programs to empower women, youth, PWDs, MSMEs and marginalized groups to engage in the generation, protection, and utilization of intellectual property rights. This will ensure inclusivity in the innovation ecosystem.
- 3.3.5. Promote Innovation through Award and Recognition Programs:** Organize competitions, awards, and recognition programs to incentivize inventors, artists, and entrepreneurs. These initiatives will highlight innovative contributions and encourage further creative endeavors.

**Policy Issue 2: Inadequate and Unsustainable Funding for IP Generation, Protection, and Management**

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Kenya’s innovation and intellectual property ecosystem continues to face major financial constraints. Funding for research, innovation, and intellectual property protection remains significantly below national and continental benchmarks. The country’s investment in research and development (R&D) has consistently fallen below 1% of GDP—half of the African Union target of 2%. Existing funds administered by the National Research Fund (NRF) primarily support academic research rather than innovation, IP registration, or commercialization.

National IP institutions such as the Kenya Industrial Property Institute (KIPI), the Kenya Copyright Board (KECOBO), and the Anti-Counterfeit Authority (ACA) also operate under constrained budgets, limiting their ability to conduct awareness programs, support filings, or provide technical assistance to innovators. Innovators, MSMEs, and research institutions lack affordable funding mechanisms for IP protection, with high filing and maintenance fees discouraging IP applications. This has led to low levels of patent filings, limited participation by women and youth, and underutilization of IP as a tool for economic transformation.

**Policy Objective:**

To establish sustainable funding mechanisms that support research, innovation, IP protection, and commercialization across public and private institutions.

**Policy Statement:**

The Government shall enhance and sustain funding for IP generation, protection, and commercialization through coordinated national mechanisms that strengthen research institutions, IP offices, and innovators.

**Strategies:**

- 3.3.6. Strengthen Funding for National IP Institutions:** Ensure adequate budgetary allocation to key IP agencies—including KIPI, KECOBO, ACA, and KEPHIS—to enhance operational capacity, outreach, and service delivery.
- 3.3.7. Reorient NRF Funding Priorities:** Expand the scope of NRF funding to cover IP protection, prototype development, and market entry support for publicly funded research outputs.
- 3.3.8. Facilitate Access to Innovation Financing:** Partner with financial institutions and development partners to develop IP-backed financing models and credit facilities for innovators and creative entrepreneurs.
- 3.3.9. Incentivize Private Sector Participation:** Provide tax incentives or matching grants to private sector entities that invest in R&D, IP development, and commercialization initiatives.

### **3.4. Technology Transfer and commercialization of IP rights**

**Policy Issue 1: Weak technology transfer and commercialization of IP Assets**

Commercialization and technology transfer in Kenya faces several critical challenges that limit their full potential. First, the Kenya National Innovation Agency (KeNIA), which is mandated with matters commercialization and technology transfer, faces problems of inadequate funding

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and staffing, hindering its ability to meet the rising demand for innovation support services. Secondly, although the Movable Property Security Rights Act (2017) allows intellectual property (IP) to be used as collateral, its practical implementation is limited due to a lack of qualified IP valuation professionals and low awareness among innovators. Thirdly, lack of institutional IP policies is another major barrier, —less than 20% of universities, research institutions, and TVETs have IP policies, and even where such policies exist, implementation is weak. Collective Management Organizations (CMOs) also face structural issues, including insufficient copyright usage data, low IP awareness, infringement challenges, inadequate digital systems, governance weaknesses, and the absence of CMOs for the film, reprographic rights and visual arts sectors. For startups, limited access to funding, skilled labor, testing and piloting facilities, and incubation or acceleration support further constrain innovation efforts. Additionally, most Technology Transfer Offices (TTOs) in universities are ineffective due to poor staffing, limited budgets, inadequate expertise, poor structural integration, and a lack of clear career paths for TTO personnel. These barriers significantly hinder Kenya’s innovation and commercialization efforts.

**Policy Objective:**

To strengthen commercialization and technology transfer

**Policy Statement:**

The Government shall facilitate the transfer of technologies and the commercialization of intellectual property (IP) assets to drive economic growth, stimulate enterprise development, and create job opportunities.

**Strategies:**

- 3.4.1. Establish and Strengthen Technology Transfer Offices (TTOs):** Develop and enhance the capacity of Technology Transfer Offices within colleges, TVETs, Universities and research organizations to effectively bridge the gap between research outputs and commercialization. These offices will play a critical role in identifying market opportunities, managing IP portfolios, and facilitating partnerships.
- 3.4.2. Promote Innovation Hubs and Incubators:** Foster the development of innovation hubs, incubators, and accelerators to support start-ups and micro, small, and medium enterprises (MSMEs) and Jua Kali Sector in transforming IP assets into viable market products and services. These platforms will provide essential resources, mentorship, and networking opportunities for entrepreneurs
- 3.4.3. Promote Incentive Mechanisms:** Create incentive mechanisms such as tax breaks, grants, and funding programs specifically designed to support the commercialization of innovations and creative works. These incentives will encourage investment in research and development activities that lead to market-ready solutions.

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- 3.4.4. Facilitate Public-Private Partnerships (PPPs):** Encourage collaboration between public institutions and private sector stakeholders to promote investment in research, development, and technology transfer initiatives. PPPs can leverage resources and expertise from both sectors to enhance innovation outcomes.
  - 3.4.5. Strengthening Linkages Between Research Institutions and Industry:** Enhance connections between research institutions, industries, and businesses to accelerate the adoption of locally developed technologies. This includes organizing industry-academia forums that facilitate knowledge exchange and collaboration on technology projects.
  - 3.4.6. Strengthen IP Valuation, Audit, and Licensing Frameworks:** Establish comprehensive frameworks and build capacity for valuing intellectual property, conducting audits, and facilitating licensing agreements. These frameworks will support technology transfer efforts by providing clear guidelines for IP-based collaborations and investment opportunities.
  - 3.4.7. Institutionalize the Role of Registered IP Agents:** The Government shall recognize and integrate registered IP agents as key facilitators within the national innovation and technology transfer ecosystem. These agents shall be mandated to support innovators, MSMEs, startups, and research institutions in the preparation, filing, and maintenance of IP rights across all sectors, and to provide advisory services on IP strategy and commercialization. Accreditation, ethical practice, and continuous professional development shall be overseen by KIPI in collaboration with relevant professional bodies.
  - 3.4.8. Utilize Patent and Trade Mark Information:** Encourage innovators to leverage patent and trade mark information as tools for identifying market opportunities and driving innovation-led businesses. Access to this information can inform strategic decision-making regarding product development and market entry.
  - 3.4.9. Implement Training Programs for Technology Transfer Professionals and Patent Agents:** Develop specialized training programs for professionals involved in technology transfer to enhance their skills in managing IP rights, negotiating agreements, and facilitating commercialization processes.
  - 3.4.10. Create an Innovation Fund:** Establish an innovation fund dedicated to supporting technology transfer initiatives. This fund can provide financial backing for promising projects that demonstrate commercial viability while fostering a culture of innovation within the research community.

## **Policy Issue 2: Limited Establishment and Operationalization of Technology Transfer Offices (TTOs) in Universities and Research Institutions**

Despite Kenya's growing investment in research and innovation, most universities and research institutions lack functional Technology Transfer Offices (TTOs) to manage and commercialize intellectual property (IP) generated from research outputs. Only a few institutions have established such offices, and even where they exist, their mandates and governance structures are not standardized. This gap limits the ability of institutions to identify, protect, and

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commercialize intellectual assets, resulting in low IP disclosures, minimal licensing, and weak linkages with industry. The absence of a national framework to coordinate TTO operations has further hindered knowledge and technology transfer from academia and research to the market.

**Policy Objective:**

To enhance the establishment, coordination, and effective functioning of Technology Transfer Offices (TTOs) across universities and research institutions to facilitate the protection, management, and commercialization of intellectual property.

**Policy Statement:**

The Government shall strengthen the establishment and operationalization of Technology Transfer Offices (TTOs) in universities and research institutions to support effective IP management, protection, and commercialization.

**Strategies:**

- 3.4.11. Develop a National Framework for TTOs:** Formulate and implement a standardized framework to guide the establishment, governance, and coordination of TTOs across all universities, research institutions, and innovation hubs.
- 3.4.12. Strengthen Institutional IP Policies:** Support universities and research institutions to develop and implement internal IP policies and guidelines that define ownership, benefit-sharing, and commercialization procedures.
- 3.4.13. Foster Industry–Academia Collaboration:** Establish structured linkages between TTOs, industry, and government agencies to promote technology uptake, joint ventures, and commercialization of research outputs.
- 3.4.14. Establish a National TTO Network:** Create a national platform for collaboration among TTOs to facilitate experience sharing, capacity building, and coordinated reporting on technology transfer outcomes.

**Policy Issue 3: Inadequate and Unsustainable Funding for Technology Transfer Offices**

Even where TTOs exist, their sustainability and impact are constrained by insufficient and irregular funding. Most institutions rely on short-term project grants or donor support, which are inadequate to sustain professional staff, manage patent filings, or execute commercialization strategies. The absence of dedicated budget allocations and IP commercialization funds has weakened the operational capacity of TTOs, limiting their ability to support inventors, innovators, and entrepreneurs in protecting and marketing research outputs. Without sustainable financing, TTOs cannot effectively bridge the gap between innovation and industry application.

**Policy Objective:**

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To establish sustainable funding mechanisms for the effective operation of Technology Transfer Offices (TTOs) in universities and research institutions.

**Policy Statement:**

The Government shall promote sustainable financing models for the effective functioning of TTOs to ensure continuous support for IP protection, management, and commercialization.

**Strategies:**

- 3.4.15. Establish Dedicated Funding Mechanisms:** Develop and operationalize a national IP and technology transfer fund to support TTO operations, patent filings, and commercialization initiatives.
- 3.4.16. Integrate TTO Financing in Institutional Budgets:** Encourage universities and research institutions to allocate dedicated resources within their annual budgets to strengthen IP management and technology transfer activities.
- 3.4.17. Promote Public–Private Partnerships (PPPs):** Facilitate collaboration between TTOs, private investors, and development partners to co-finance research translation, licensing, and start-up incubation.
- 3.4.18. Incentives for Commercialization:** Introduce performance-based incentives for institutions and innovators that demonstrate successful IP commercialization and industry collaboration

### **3.5. Legal and institutional frameworks for enforcement of IP Rights**

#### **Policy Issue 3: Weak enforcement of IP Rights**

While the Government has made significant progress on enforcement of IP rights by establishing the Anti Counterfeit Authority in 2008, as well as mandating the Kenya Copyright Board to undertake enforcement of copyrights, enforcement of IP rights in Kenya is still faced with several challenges. First there is inadequate human and financial resources of the two organizations to effectively undertake IP enforcement. Secondly, the level of IP awareness of the law enforcement bodies, customs officials and the judiciaries is low. Thirdly, coordination between the various enforcement institutions is weak. Fourth, there are currently no specialized IP courts, low level of public awareness on the dangers of counterfeit and pirate products, weak border measures, limited use of technology in enforcement, and an inadequate Monitoring, Evaluation and Learning (MEL) framework on the effectiveness of enforcement.

**Policy Objective:**

To strengthen enforcement of IP rights in Kenya.

**Policy Statement:**

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The Government shall enhance the legal and institutional frameworks to ensure the effective enforcement of intellectual property rights (IPRs), specifically targeting the mitigation of piracy, counterfeiting, and other forms of infringement.

**Strategies:**

- 3.5.1. Strengthen Enforcement Agency Capacities:** Augment the operational capabilities of enforcement agencies, including ACA, KEPHIS, KECOBO, law enforcement bodies, customs officials, and the judiciary. This enhancement will involve providing specialized training programs, advanced technical resources, and operational tools necessary for the rigorous enforcement of intellectual property laws and regulations.
- 3.5.2. Enhance Inter-Agency Collaboration:** Foster robust collaboration between intellectual property offices, enforcement agencies, and industry stakeholders to improve coordination in IP enforcement efforts. Establishing formal communication protocols will facilitate resource sharing, streamline responses to IP infringements, and create a unified front against violations.
- 3.5.3. Establish Specialized IP Courts:** Create and operationalize specialized intellectual property courts or tribunals designed to expedite the resolution of IP-related disputes. These courts will be staffed with judges possessing specialized expertise in intellectual property law, ensuring informed decision-making and efficient case management that is responsive to the complexities of IP issues.
- 3.5.4. Implement Public Awareness Campaigns:** Develop comprehensive public awareness initiatives that elucidate the economic and social ramifications of IP infringement, including piracy and counterfeiting. By educating the public on the significance of respecting intellectual property rights, these campaigns will foster a culture of compliance and support for enforcement measures.
- 3.5.5. Strengthen Border Control Mechanisms:** Enhance border control measures and surveillance systems to prevent the entry of counterfeit goods into the Kenyan market. This includes training customs officials in identifying counterfeit products and implementing advanced tracking technologies to improve monitoring capabilities at entry points.
- 3.5.6. Develop Deterrent Penalties for Infringements:** Review existing penalties for intellectual property infringements to ensure they are sufficiently deterrent and punitive. Establishing clear legal consequences for violations will encourage compliance with intellectual property laws among businesses and individuals.
- 3.5.7. Leverage Technology for Enforcement:** Utilize cutting-edge technology and digital tools to track, monitor, and report instances of IP infringements efficiently. Implementing sophisticated data analytics systems can aid in identifying trends in infringement activities, enhancing situational awareness, and improving response strategies.

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- 3.5.8. Conduct Regular Training for Law Enforcement Personnel:** Provide ongoing training programs for law enforcement personnel focused on intellectual property issues, including investigation techniques, evidence collection protocols, and legal procedures related to IP enforcement. This will ensure that personnel are well-equipped to handle IP-related cases effectively.
  - 3.5.9. Engage Stakeholders in Policy Development:** Actively involve industry stakeholders, including rights holders, legal practitioners, and consumer advocacy groups—in the formulation of policies aimed at strengthening IP enforcement mechanisms. Their insights will contribute to more effective strategies that address real-world challenges faced in enforcing IP rights.
  - 3.5.10. Monitor and Evaluate Enforcement Effectiveness:** Establish a comprehensive framework for monitoring and evaluating the effectiveness of IP enforcement measures on a regular basis. This will involve systematic data collection on infringement cases, assessing outcomes against established benchmarks, and making necessary adjustments to enforcement strategies based on empirical evidence.

### **3.6. Collaboration, Partnerships and Linkages of IP Actors**

**Policy Issue: Weak collaboration amongst IP stakeholders at national, regional and international level.**

Currently there is weak collaboration amongst key IP stakeholders in Kenya as well as between Kenyan stakeholders with others in the region and globally. As a result the IP ecosystem is losing out on tapping the benefits that such collaboration can bring.

#### **Policy Objective**

To strengthen collaboration at national, regional and global levels on IP

#### **Policy Statement**

The Government shall promote collaboration, partnerships, and linkages among intellectual property (IP) stakeholders at national, regional, and international levels to strengthen the intellectual property ecosystem.

#### **Strategies**

- 3.6.1. Strengthen Partnerships among stakeholders:** Enhance collaborative efforts between government agencies, research institutions, universities, micro, small, and medium enterprises (MSMEs), and the private sector. This will involve creating formal networks that facilitate the sharing of resources, expertise, and best practices to promote innovation and effective utilization of IP assets.

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- 3.6.2. Foster Regional Collaboration:** Engage in regional organizations such as the African Regional Intellectual Property Organization (ARIPO), OAPI, AU and the East African Community (EAC). This collaboration will enhance regional coherence in IP management and enforcement.
  - 3.6.3. Establish Multi-Stakeholder Platforms:** Create multi-stakeholder platforms that bring together various actors in the IP landscape to coordinate initiatives, exchange knowledge, and collaboratively address challenges. These platforms will serve as forums for dialogue, fostering partnerships that enhance the effectiveness of IP strategies.
  - 3.6.4. International Engagement:** Strengthen Kenya’s active participation in international intellectual property organizations such as the World Intellectual Property Organization (WIPO), the International Union for the Protection of New Varieties of Plants (UPOV), and the TRIPS Council. This engagement will ensure alignment with global IP standards and facilitate access to technical assistance and capacity-building resources.
  - 3.6.5. Facilitate Cross-Border Cooperation:** Promote cross-border cooperation on IP enforcement by establishing frameworks for sharing information and best practices among countries to combat counterfeiting and piracy. This will involve creating bilateral agreements that enhance collaboration in enforcement activities.
  - 3.6.6. Mobilize Development Partnerships:** Promote linkages with development partners and investors to mobilize funding and technical support for IP-related programs. This includes seeking partnerships with international organizations, NGOs, and private sector investors to bolster resources for innovation initiatives.
  - 3.6.7. Encourage Capacity Building Initiatives:** Foster partnerships aimed at capacity building and knowledge exchange to strengthen IP awareness, education, and research in Kenya. This will involve developing training programs tailored for various stakeholders, including entrepreneurs, researchers, and policymakers.
  - 3.6.8. Strengthen collaboration between IP offices and Innovation Hubs:** Utilize existing innovation hubs as platforms for collaboration among IP actors. These hubs can facilitate networking opportunities, provide mentorship programs, and support collaborative projects that enhance the commercialization of IP assets.
  - 3.6.9. Implement Monitoring Mechanisms:** Establish monitoring mechanisms to evaluate the effectiveness of collaborative initiatives within the IP ecosystem. Regular assessments will help identify gaps in partnerships and inform strategic adjustments to enhance collaboration efforts.
  - 3.6.10. Promote Public Awareness of Collaboration Benefits:** Develop public awareness campaigns highlighting the importance of collaboration among IP stakeholders in driving innovation and economic growth. Educating the public about successful partnerships can inspire further engagement across sectors.

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### **3.7. IP Training, Education, Awareness ,Outreach, and research**

#### **Policy Issue 1: Inadequate IP Training, Education and Awareness**

Kenya has made commendable progress in promoting intellectual property (IP) education and training through various academic and institutional initiatives. Universities such as the University of Nairobi, Kenyatta University, JKUAT, and Strathmore University offer specialized IP courses within their law, commerce, and innovation programs. National IP institutions—KIPI, KECOBO, ACA, KENIA and KEPHIS—also conduct targeted seminars and capacity-building workshops for researchers, artists, legal professionals, customs officials, and law enforcement agencies. Despite these achievements, the reach remains limited. IP training is concentrated in a few institutions and lacks presence in most universities and TVETs. The growing demand for IP expertise is unmet, and the absence of a dedicated IP Academy in Kenya restricts the scale and quality of national IP education and professional development. In addition, the absence of a national IP awareness program as well as the budget has led to fragmented outreach efforts. Without coordination and budget, the overall impact of these initiatives is reduced, highlighting the need for a unified, strategic approach to nationwide IP education and public engagement.

#### **Policy Objective:**

To enhance IP training, education and awareness to all relevant stakeholders and the public

#### **Policy Statement**

The Government shall promote and increase IP awareness and outreach to support the generation, protection, and registration and enforcement of intellectual property rights (IPRs) in Kenya.

#### **Strategies**

- 3.7.1. Expand IP Education in universities and TVETs:** Work with relevant stakeholders to expand IP education from the current level of less than 10% of universities to all universities and TVETs.
- 3.7.2. Coordinate IP Training by IP Institutions:** Develop and implement a national program for IP training that can be implemented by all the IP institutions in a more coordinated manner.
- 3.7.3. National IP Academy:** Work with other relevant stakeholders to develop and implement a strategy on the establishment of a National IP Academy in Kenya.
- 3.7.4. Special IP Training for the informal sector:** Develop and implement a special IP training for the informal sector to help create awareness of the sector on IP and to deepen their culture of innovation.

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**3.7.5. Promote IP awareness creation and outreach:** Develop and implement a national program on IP awareness creation and outreach to enhance appreciation of the importance of IP in all sectors of the economy.

**Policy Issue 2: Limited data on socio-economic impacts of IP systems in Kenya to facilitate decision and policy making.**

Currently there is limited data on the socio-economic impacts of IP systems in Kenya that can be used to unlock more investments in the sector. For example, Kenya is among the few African WIPO member states to conduct a study on the economic contribution of copyright-based industries. The 2010 study found these industries contributed 5.32% to GDP and 3.26% to national employment, raising KECOBO's profile and budget. However, the data is outdated. A new study is urgently needed to provide updated data to guide policy and investment in Kenya's creative economy. Similarly, no studies have been carried out on the actual impacts of the implementation of industrial property rights, plant breeders' rights, TK and CE Act (2016), successes and challenges of access and benefit sharing of genetic resources as provided for in the Environmental Management and Coordination Regulations (2016).

**Policy Objective:**

Enhance use of evidence for policy and decision making in IP ecosystem in Kenya

**Policy Statement**

The Government shall promote the use of evidence for policy and decision making in relation to IP issues by facilitating undertaking various studies on intellectual property.

**Strategies**

- 3.7.6. Traditional Knowledge and Cultural Expression:** Undertake a study to establish the progress and challenges of implementation of the requirement of Traditional Knowledge and Cultural Expressions Act (2016) which requires that that every county government establishes and maintains a Register on TK and TCE.
- 3.7.7. Benefit sharing from genetic resources:** Undertake a study on the impact of section 53 of the Environmental Management and Co-ordination Regulations, 2016 which govern access to and benefit sharing of genetic resources in Kenya.
- 3.7.8. Design and implement IP surveys:** Establish systems for collecting and maintaining intellectual property statistics and gender-disaggregated data. This data will inform evidence-based policymaking and help track progress in IP generation and protection efforts.

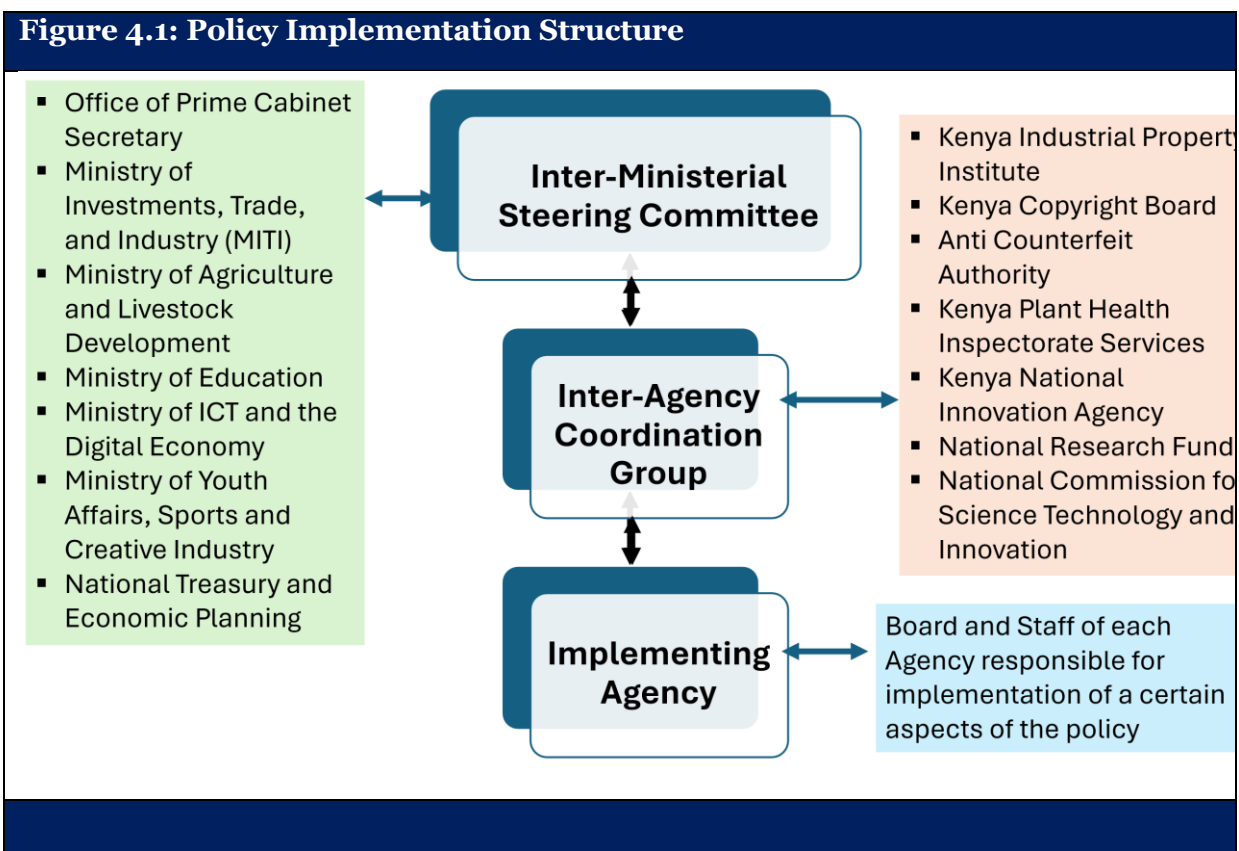
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- 3.7.9. Impact of copyright sector on the economy.** Undertake a second survey (after the one of 2010) on the impact of copyright sector on the socio-economic development of Kenya.
  - 3.7.10. Impact of plant breeders' rights on the economy.** Undertake a comprehensive survey on the impact of the plant variety system to the socio-economic development of Kenya.
  - 3.7.11. Impact of counterfeit and piracy:** Undertake regular surveys on the impact of counterfeit and piracy on the economy, jobs, sales loss, investment loss, health etc.
  - 3.7.12. Emerging technologies:** undertake studies to inform the development of guidelines and regulations to address emerging areas of intellectual property such as artificial intelligence, biotechnology, and digital innovations.

## CHAPTER FOUR

### POLICY COORDINATION AND IMPLEMENTATION

#### 4.1 Implementation Mechanisms

The effective implementation of this National Intellectual Property Policy requires a structured and well-coordinated institutional framework. This framework is designed to facilitate collaboration among stakeholders, ensure accountability, and monitor progress. The proposed implementation mechanism consists of three levels: The **Inter-Ministerial Steering Committee (IMSC)**, the **Inter-Agency Coordination Group (IACG)**, and the **Implementing Agencies, (IA)** as shown in Figure 4.1 below.



##### 4.1.1 The Inter-Ministerial Steering Committee (IMSC)

The Inter-Ministerial Steering Committee (IMSC) will consist of representatives from key ministries directly involved in the policy's implementation, including: The Office of the Prime Cabinet Secretary, Ministry of Investments, Trade, and Industry, Ministry of Agriculture and Livestock Development Ministry of Education; Ministry of ICT and the Digital Economy, Ministry of Youth Affairs, Sports and Creative Industry; and Heritage; and National Treasury and

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Economic Planning. Additional ministries may be co-opted based on emerging needs. IMSC will provide overarching strategic direction and policy oversight for the effective implementation of the NIPPS. The IMSC will meet once a year, in Quarter Four of each financial year, to receive reports in the progress and challenges of implementation of the NIPPS during the previous financial year and discuss and approve the plans for the following year. By establishing the IMSC, the Government of Kenya aims to create an efficient mechanism for coordinating efforts across multiple sectors, enhancing collaboration amongst ministries involved in implementation of the National IP Policy. This approach will ensure that Kenya effectively harnesses its intellectual property potential to drive innovation, economic growth, and sustainable development. The Convenor of the IMSC will be the office of the Prime Cabinet Secretary or its appointee.

#### **4.1.2 Inter-Agency Coordination Group (IACG)**

The Inter-Agency Coordination Group (IACG) will serve as the technical arm of the Inter-Ministerial Steering Committee (IMSC), and will consist of the CEOs of the implementing agencies, including Kenya Industrial Property Institute (KIPI); Kenya Copyright Board (KECOBO); Kenya Plant Health Inspectorate Service (KEPHIS); Anti-Counterfeit Authority (ACA); Kenya National Innovation Agency (KeNIA); and the National Research Fund. The IACG will meet on a quarterly basis to receive and discuss progress reports from each implementing agencies, prepare a consolidated report on the status of implementation of the NIPPS and submit it to the IMSC, on a quarterly basis. By establishing the Inter-Agency Coordination Group (IACG), the Government of Kenya aims to create a cohesive mechanism that ensures effective coordination among various stakeholders involved in implementing the NIPPS. This structured approach will enhance collaboration, improve accountability, and ultimately strengthen the overall intellectual property ecosystem in Kenya. The Convenor of the IACG will be appointed annually by the CEOs of the Implementing Agencies on a rotational basis.

#### **4.1.3 Implementing Agencies (IA)**

The implementation of the National Intellectual Property Policy will be carried out by designated agencies, each responsible for specific aspects of intellectual property management. The key implementing agencies are KIPI, KECOBO, KEPHIS, ACA, KENIA and NRF. At the implementation level, the key players will be the Agency's Board and Staff. At the beginning of each financial year, each agency will identify specific activities of the policy that they plan to implement and put them in their work plans. In addition, on a quarterly basis, the IAs will prepare progress reports and submit them to the IACG.

#### **4.1.4 National Intellectual Property Forum**

There shall be established a National Intellectual Property Forum. The forum shall act as a platform for engagement with the wider state and non-state stakeholders of the IP ecosystem. The Inter-Agency Coordination Group will facilitate the establishment of a National Intellectual Property Forum and ensure its discussions and recommendations are implemented. The stakeholders to be involved in the forum shall include research organizations, universities,

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development partners, civil society, private sector actors, innovators, TVETs, informal sector, and traditional practitioners. Through the National Intellectual Property Forum, the government aims to create a collaborative environment that strengthens the IP ecosystem through active engagement with all stakeholders. This approach will enhance innovation capacity, improve policy implementation, and ultimately contribute to sustainable economic development in Kenya.

#### **4.2 Communication**

Communication will be key in the implementation of the National IP Policy and Strategy. NIPPS will need to be widely disseminated, and this will involve a number of institutions and will take some time. The level of dissemination will include among others all institutions that are involved at each level of coordination of the implementation of the strategy. Upon approval of the strategy, a comprehensive communication plan will be developed to guide the policy dissemination efforts.

#### **4.3 Funding Arrangements**

The funding of the implementation of the Policy will be mobilized: through the line budget of individual implementing agencies and institutions; from WIPO, ARIPO, and African Union Commission; as well as from other development partners. A key partner in the financing of the key activities of the policy is the World Intellectual Property Organization. Therefore, once the policy is approved, the IACG will work closely with WIPO to prepare a Technical Assistance Collaborative Framework, outlining the activities the GoK will jointly implement with WIPO.

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## CHAPTER FIVE

### MONITORING AND EVALUATION

#### 5.1 Background

Monitoring and Evaluation (M&E) are integral components of the implementation of the National Intellectual Property Policy. They ensure that the objectives of the Policy are achieved effectively and that the interventions proposed translate into tangible results for Kenya's innovation and intellectual property ecosystem. The M&E framework provides mechanisms for tracking progress, measuring outcomes, and informing policy adjustments to enhance performance, accountability, and transparency. It further supports evidence-based decision-making and continuous learning throughout the policy cycle.

The Monitoring and Evaluation process will involve the systematic collection, analysis, and reporting of data to assess the extent to which the NIPPS objectives and expected outcomes are being realized. The framework will focus on key performance indicators across all thematic areas of the Policy, including IP generation, protection, commercialization, enforcement, awareness, and coordination. Through continuous monitoring, the Government will identify gaps, measure progress against defined targets, and introduce corrective measures where necessary to ensure that the implementation remains on course.

Further, the Monitoring and Evaluation Framework for the National Intellectual Property Policy provides a comprehensive system for assessing performance, accountability, and learning. It reinforces Kenya's commitment to building a robust, evidence-based, and transparent IP governance structure. Through active participation of all stakeholders under the coordination of the Inter-Ministerial Steering Committee and the Inter-Agency Coordination Group, the M&E system will ensure that the Policy remains dynamic, responsive, and effective in driving innovation, creativity, and economic transformation.

#### 5.2 Institutional Mechanism for Monitoring and Evaluation

The Monitoring and Evaluation of the National IP Policy will be guided by the institutional coordination structure established under the Policy, which consists of the Inter-Ministerial Steering Committee (IMSC), the Inter-Agency Coordination Group (IACG), and the implementing agencies. This multi-level structure is designed to ensure effective coordination, accountability, and stakeholder participation in the monitoring process.

The Inter-Ministerial Steering Committee shall provide overall oversight and policy direction for the implementation of the policy. It will review consolidated progress reports, ensure inter-ministerial coordination, mobilize resources, and approve the annual implementation and evaluation plans. The Committee will meet biannually to assess performance, address emerging challenges, and make high-level policy decisions necessary to advance implementation.

The National Intellectual Property Forum will serve as the principal platform for stakeholder engagement and dialogue. It will bring together representatives from government agencies, the private sector, academia, civil society, and development partners to review progress, share experiences, and provide recommendations on strengthening implementation. The Council will

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also facilitate dissemination of M&E findings, ensuring transparency and inclusivity in the evaluation process.

The Inter-Agency Coordination Group will serve as the technical coordination and reporting arm of the implementation mechanism. It will consolidate data and reports from the implementing agencies, prepare quarterly and annual M&E reports, and identify operational bottlenecks requiring policy or institutional intervention. The Group will also play a critical role in ensuring harmonization of IP-related data collection and standardization of performance indicators across institutions.

Implementing agencies, universities, TVET institutions, research institutions, and relevant county governments, will be responsible for collecting, analyzing, and reporting data on their respective activities. Each institution will incorporate NIPPS indicators into its annual work plans and will submit quarterly progress reports to the Inter-Agency Coordination Group. The agencies will also conduct internal performance reviews and participate in annual review workshops organized by the IP Council.

### **5.3 Evaluation and Key Indicators**

Evaluation of the National IP Policy will be both formative, focusing on the implementation process, and summative, assessing the results and impact of the Policy. Key performance indicators as shown in Annex II will include the number of IP applications and registrations; the rate of IP commercialization and licensing agreements; the level of IP awareness among the public; the amount of funding allocated to research, innovation, and IP protection; the number of cases of infringement addressed; and the contribution of IP-intensive sectors to GDP and employment. Qualitative indicators such as stakeholder satisfaction, inclusivity, and inter-agency collaboration will also be considered.

### **5.4 Reporting, Dissemination, and Feedback**

The reporting process will be structured to ensure consistency and accountability across all levels of implementation. Implementing agencies will prepare quarterly progress reports, which will be consolidated by the Inter-Agency Coordination Group into a comprehensive annual progress report. The annual report will be reviewed by the Inter-Ministerial Steering Committee to inform policy decisions and future planning. A mid-term review will be conducted midway through the implementation cycle to assess the extent of progress and the effectiveness of interventions, while a final evaluation will be undertaken at the end of the period to assess overall impact and sustainability.

The results of monitoring and evaluation will be disseminated through stakeholder workshops, national IP forums, and digital platforms managed by the relevant agencies. Summaries of key findings will be made publicly available to ensure transparency and promote stakeholder engagement. Public communication will be facilitated through policy briefs, press releases, and media engagements to raise awareness of progress and achievements under the Policy.

A robust feedback mechanism will be established to enable continuous learning and adaptation. Stakeholders and the public will have access to feedback channels such as online surveys, consultation forums, and institutional helpdesks where they can share experiences and suggestions. The feedback received will be analyzed periodically and integrated into policy reviews

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to improve responsiveness and impact. Lessons learned from the implementation process will inform future policy revisions and strengthen the national IP system.

## **5.5 Data Sources**

The implementation of an effective M&E framework depends on the availability of accurate, reliable, and timely data. Both primary and secondary sources will be utilized to collect information on the progress and impact of the Policy. Primary data will be obtained directly from stakeholders through national IP surveys, structured interviews, and focus group discussions. These engagements will target innovators, TVETS, IPMOs, TTOs, researchers, artists, universities, research institutions, micro, small and medium enterprises (MSMEs), and enforcement agencies. The collected information will provide insight into trends in IP awareness, creation, protection, and commercialization. Primary data collection will also include gender- and region-disaggregated data to measure inclusivity, participation, and equity across the innovation landscape.

Secondary data will be drawn from institutional and administrative records of agencies such as the KIPI, KECOBO, ACA, KEPHIS, NACOSTI, KeNIA and NRF. Additional data will be obtained from reports of universities and research institutions, trade statistics, and the Kenya National Bureau of Statistics (KNBS), which will serve as the custodian of official data used for monitoring national indicators. Global and regional sources such as the World Intellectual Property Organization (WIPO) and the African Regional Intellectual Property Organization (ARIPO) will also provide benchmarking data for comparative analysis.

## **5.6 Policy Implementation**

The implementation of the National Intellectual Property Policy shall be undertaken through a coordinated, multi-agency, and results-oriented approach that ensures effective delivery of policy objectives and measurable outcomes. The Government, through the Inter-Ministerial Steering Committee (IMSC) and the Inter-Agency Coordination Group (IACG), shall oversee and guide the operationalization of the Policy across all sectors of the IP ecosystem.

Implementation shall be anchored on clear institutional mandates, performance indicators, and resource commitments to guarantee coherence, accountability, and sustainability. Ministries, Departments and Agencies (MDAs), county governments, and partner institutions shall integrate IP-related activities into their respective strategic and annual work plans in alignment with the National IP Policy.

Each implementing institution shall designate a National IP Policy Focal Point Officer responsible for coordinating internal implementation activities, compiling progress reports, and liaising with the IACG. The focal officers shall ensure that IP initiatives within their institutions align with the policy's thematic areas, including IP awareness, generation, protection, commercialization, enforcement, and coordination.

The Inter-Ministerial Steering Committee (IMSC) shall review consolidated progress reports submitted through the IACG, approve annual implementation priorities, and provide strategic direction. The IACG, serving as the technical secretariat, shall prepare consolidated quarterly and annual implementation reports, identify operational challenges, and recommend policy or institutional adjustments for consideration by the IMSC.

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To ensure continuity and effectiveness, implementation plans shall be accompanied by costed action matrices and timelines derived from the National IP Policy and Strategy. The Government shall ensure periodic review and updating of the implementation plan to respond to emerging trends, technological advancements, and stakeholder feedback.

In addition, the implementation process shall emphasize capacity building and professionalization within IP administration, especially the institutionalization of registered IP agents, technology transfer officers, and IP managers across institutions—to guarantee that policy objectives translate into sustainable outcomes.

The successful implementation of the Policy shall contribute to the creation of a dynamic, inclusive, and innovation-driven IP ecosystem that promotes creativity, competitiveness, and socio-economic transformation in Kenya.

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## **CHAPTER SIX**

### **POLICY REVIEW**

The National IP policy will undergo a comprehensive review every ten (10) years from the date of its implementation. This review will assess the policy's performance, relevance, and effectiveness in achieving its goals.

The review will include a thorough evaluation of the outcomes achieved, the challenges faced, and the lessons learned during the implementation period. Stakeholder engagement will be integral to this process, ensuring diverse perspectives are considered.



Strategy	Activity	Expected Output	Output Indicators	10-Year Target										Budget (KES)										Responsibility				
				1	2	3	4	5	6	7	8	9	10	1	2	3	4	5	6	7	8	9	10	Lead	Support			
ns of Folklore																												
<b>Finalize and enact the Geographical Indications Bill to support the promotion of locally distinctive product</b>	Conduct validation workshops, finalize Bill, and facilitate enactment	Geographical Indications Act enacted and operationalized	GI Bill enacted and published																									KIPI  Council of County Governments AGs Office
<b>Introduce provisions for the protection of trade secrets and undisclosed business information</b>	Amend relevant laws to include trade secret provisions	Trade secret protection provisions incorporated in national IP laws	Number of amended laws incorporating trade secret provisions																									KIPI  AGs Office Parliament











Strategy	Activity	Expected Output	Output Indicators	10-Year Target										Budget (KES)										Responsibility															
				1	2	3	4	5	6	7	8	9	10	1	2	3	4	5	6	7	8	9	10	Lead	Support														
<b>Promote digital transformation and automation of IP systems</b>	Implement IP management software, digitize records, and enable e-filing	Digitized and automated IP registration systems	Number of automated systems deployed																																			<b>IACG / Ministry of ICT</b>	KIPI, KECOBO, KEPHIS, ACA, eCitizen Secretariat
<b>Strengthen public-private partnerships (PPPs)</b>	Develop and implement frameworks for PPPs in IP and innovation	Enhanced collaboration between public and private actors	Number of PPPs established and operational																																		<b>IMSC / IACG</b>	KeNIA, KEPSA, FKE, Universities, Research Institutions	
<b>Implement national capacity-building and</b>	Conduct workshops and seminars for	Increased IP knowledge and	Number of trainings conducted and																																		<b>IACG / IP Council of Kenya</b>	KIPI, KECOBO, ACA, KEPSA, Judiciary	















Strategy	Activity	Expected Output	Output Indicators	10-Year Target										Budget (KES)										Responsibility	
				1	2	3	4	5	6	7	8	9	10	1	2	3	4	5	6	7	8	9	10	Lead	Support
<b>scaling up locally developed technologies</b>	IALIZATION OF LOCAL INNOVATIONS	S ADOPTED BY INDUSTRY																							
<b>Enhance KEPHIS capacity for protecting plant varieties and promoting seed certification for commercialization</b>	MODERNIZE SYSTEMS, BUILD BREEDER CAPACITY, AND ENHANCE INTERNATIONAL COLLABORATION	STRENGTHENED PVP ADMINISTRATION AND COMMERCIALIZATION OF CERTIFIED SEEDS	NUMBER OF PVP APPLICATIONS PROCESSED; EXPORTED SEED VARIETIES																		<b>IACG / KEPHIS</b>	Ministry of Agriculture, Universities, Breeders, WIPO			
<b>Strengthen KECOBO's role in facilitating the commercialization of creative</b>	REFORM LICENSING, ROYALTIES, AND DIGITAL CONTENT MANAGEMENT SYSTEMS	IMPROVED MONETIZATION AND PROTECTION OF CREATIVE WORKS	NUMBER OF CREATORS BENEFITTING FROM ROYALTIES; DIGITAL SYSTEMS OPERATIONAL																		<b>IACG / KECOBO</b>	Creative Sector Associations, WIPO, Ministry of Youth, Private Sector			



Strategy	Activity	Expected Output	Output Indicators	10-Year Target										Budget (KES)										Responsibility	
				1	2	3	4	5	6	7	8	9	10	1	2	3	4	5	6	7	8	9	10	Lead	Support
<b>ACA to eliminate duplication and enhance efficiency</b>	framework																								
<b>Develop and operationalize an online IP enforcement database for tracking infringements and enforcement actions</b>	Design, pilot, and deploy centralized enforcement data system	Centralized and interoperable database operational	Database developed; Number of enforcement cases recorded																			<b>IACG / ACA</b>	KECOBO, KIPI, KEPHIS, ICT Authority, ODPP		
<b>Provide training and capacity-building programs for</b>	Conduct IP training workshops, courses,	Strengthened enforcement and adjudication capacity	Number of officers trained; Number of IP courses conducted																			<b>IACG / Judiciary Training Institute</b>	ACA, ODPP, KRA, DCI, KECOBO, WIPO		













Strategy	Activity	Expected Output	Output Indicators	10-Year Target										Budget (KES)										Responsibility				
				1	2	3	4	5	6	7	8	9	10	1	2	3	4	5	6	7	8	9	10	Lead	Support			
Institutionalize systematic IP data collection and management across IP agencies and research institutions	Develop data collection protocols and reporting frameworks	Harmonized IP data collection and reporting across institutions	Number of agencies using standardized IP data tools																								IACG Secretariat	KIPI, KECOBO, KEPHIS, ACA, NRF, NACOSTI
Establish an IP statistics and analytics unit to support evidence-based decision-making	Create a dedicated unit under the IACG for IP statistics and analysis	Operational IP statistics and analytics unit	Unit established and functional reports published annually																								IACG Secretariat	KNBS, MoITED, NRF
Conduct regular IP audits, surveys, and impact assessments	Undertake national IP surveys and	Updated IP performance reports and datasets	Number of surveys and assessments conducted																								NRF	KIPI, KECOBO, KEPHIS, ACA, KNBS





<b>Policy Objective</b>	<b>Outcome</b>	<b>Outcome Indicator</b>	<b>Baseline (Y1)</b>	<b>Mid-Term (Y5)</b>	<b>End-Term (Y10)</b>
<b>2. Enhance institutional frameworks for effective administration, coordination, and management of intellectual property rights.</b>	Strengthened coordination and efficiency of IP institutions	Existence and operationalization of National IP Coordination Office and functional IACG	Weak institutional coordination and resource gaps	Coordination office established and partially operational	Fully functional and resourced IP coordination system with annual reporting
<b>3. Strengthen the generation, protection, and maintenance of intellectual property assets across all sectors of the economy.</b>	Increased domestic IP filings and broader participation in IP generation	Number of resident IP applications (patents, trademarks, designs)	<200 patent filings annually; low MSME and university participation	50% increase in resident filings	100% increase in resident filings with improved gender and institutional representation
<b>4. Enhance the commercialization of intellectual property rights and facilitate technology transfer.</b>	Improved conversion of research and innovation outputs into market-ready IP products	Number of IPs commercialized or licensed annually	Limited commercialization and weak TTOs	30% increase in IP commercialization cases	80% increase in IP commercialization and technology transfer agreements
<b>5. Strengthen the legislative and institutional framework for</b>	Coordinated, effective, and technology-enabled IP	Number of coordinated enforcement	Fragmented enforcement	Centralized enforcement database and	70% reduction in counterfeiting and piracy rates through

<b>Policy Objective</b>	<b>Outcome</b>	<b>Outcome Indicator</b>	<b>Baseline (Y1)</b>	<b>Mid-Term (Y5)</b>	<b>End-Term (Y10)</b>
<b>enforcing intellectual property rights.</b>	enforcement system	actions and prosecutions	and low conviction rates	joint taskforces established	improved enforcement
<b>6. Strengthen intellectual property education, training, awareness, and outreach at all levels of society.</b>	Increased public awareness and professional capacity in IP management	Percentage of population and professionals trained or sensitized on IP	Low IP awareness (less than 30%)	50% of key sectors covered by targeted training	80% awareness and IP integrated into formal and informal education systems
<b>7. Promote regional and international cooperation in intellectual property.</b>	Enhanced participation and collaboration in regional and global IP frameworks	Number of regional/international IP agreements Kenya participates in	Limited engagement and delayed ratifications	3 new IP-related treaties ratified	6 new IP-related treaties ratified and implemented with joint programs
<b>8. Strengthen the use of evidence for policy and decision-making on IP issues.</b>	Institutionalized IP data collection and analysis system	Existence of IP statistics and analytics unit producing annual reports	Limited or no coordinated IP data collection	National IP data collection framework established	Fully operational IP data system integrated across agencies and informing annual policy reviews