



POLICY PAPER:

Ron Layton and Meg Brindle. Light Years IP, May 2012

The African IP Trust

A highly credible organization to advocate for, support and enforce the rights of African farmers, producers, artisans and others whose incomes are diminished, and opportunities lost, by not being able to fully use their Intellectual Property for development. The African IP Trust (AIPT) will contribute to a larger process aimed at ensuring that low-income producers of distinctive products are achieving both income gains and ownership of IP. The AIPT will contribute mainly to strengthen the producers' ability to negotiate mutually beneficial outcomes returning respect and control of IP to the rightful owners of the IP and to assist when there is opposition from corporations and industry associations or individuals that are overly benefitting from the current situation.

On request from large groups of low-income African IP owners who are facing opposition when attempting to use IP rights to earn higher income (by using IP Value Capture strategies or other methods), the AIPT will provide support to the producers through concerted advocacy, including:

- Approaching opposing companies to advocate for cooperation with producers and focusing on mutual benefits
- Assembling wide-ranging groups of further advocates, including socially responsible shareholders and allies who support African IP rights
- Strengthening the negotiating position of the producers and, if requested, supporting the producers in public debate on the issues
- Working towards a balanced negotiation that allows the producers to complete their IP Value Capture (IPVC) strategy and make substantial income gains, while the corporation realizes opportunities to benefit from stronger producers (such as being in a network of licensed distributors carrying out joint promotion).

Why the concerted advocacy of the AIPT is necessary

The success of IPVC, which is now being applied widely as national policy by African countries (Tanzania is the first), producer groups and other African IP owners, raises the likelihood of opposition from importing companies not used to the IP owners standing up for their rights. These companies are motivated to oppose because they are currently taking most of the retail income generated by distinctive products that producers will aim to capture. The IPVC approach aims to substantially improve producers' negotiating positions, even in the face of actual opposition from foreign distributors/retailers. The AIPT will function as such a vehicle for concerted advocacy.

The effectiveness of concerted global advocacy – Ethiopian Fine Coffee Initiative

The importance of concerted advocacy has been demonstrated in the case of one million farmers and producers of Ethiopian fine coffee.

From 2004, Ethiopia and Light Years IP set out to secure more export income for the Ethiopian fine coffee export sector with an IPVC strategy of taking control of fine coffee brands in importing countries and using this control to set up a network of licensed distributors in final consumer markets. There were many obstacles and barriers as there are importers and retailers who were taking most of the value of these distinctive products in final market wholesale and retail sectors.

There has regrettably been a mentality that making money by not respecting brands from Africa is acceptable practice. Starbucks and “big coffee” (working through the National Coffee Association of America), for example, believed they could dispute control of the trademarks for the brands of three wonderful fine coffees that are part of Ethiopia’s heritage, simply by being more powerful than Ethiopia’s fine coffee export sector.

Light Years IP engaged a large group of serious organizations to support a protracted struggle to secure the principle of Ethiopian ownership of their own fine coffee brands. After Starbucks had refused all attempts by Ethiopia and the LY-assembled group to reach a non-public settlement, a public campaign began in October 2006. It was ultimately Starbucks Chairman Howard Schultz who conceded, in part due to collective action but primarily as he was brought to concede by a strategy developed by Ron Layton and applied by Ethiopian Ambassador Samuel Assefa. Schultz adjusted the Starbucks business model as recognizing Ethiopia’s right is the “right thing to do”, ending the dispute, while knowing that higher farm gate prices would enable the farmers to continue to produce the fine coffee that can generate retail prices over \$20 per lb.

This example illustrates the value of what the new African IP Trust (AIPT) will do: move businesses to negotiate by creating collective action to support the rights of the African producers, indigenous people, farmers and artisans who seek the AIPT assistance, while at the same time, demonstrating the mutual benefits of buyers working with these producers.

The leadership of the AIPT:

The African IP Trust is co-chaired by The Right Honourable Lord Paul Boateng and Congresswoman Diane E. Watson (ret). The AIPT board is Lord Paul Boateng; Congresswoman Watson; Mr. Ron Layton, Chief Executive Officer of Light Years IP; Mr. Mark Florman, CEO of the British Venture Capital Association, and Attorney Claude Fontheim, Chief Executive Officer, Fontheim, LLC and Global Works.

The AIPT is augmented by an Honorary Board, an Advisory Board, and many other supporters, advocates of farmer and human rights, such as Mrs. Mary Robinson, former President of Ireland and former UN Commissioner of Human Rights.

The vision for AIPT

AIPT functions as a supporting group for African producers, who have organized themselves as stakeholders of the Intellectual Property associated with a distinctive product that they produce.

If requested, the AIPT will work with stakeholders to assess the potential harm to their position caused by opposition from businesses in the supply chain of a distinctive product. On request, the AIPT will approach the business, advocating collaboration with the African stakeholders. In the case of non-cooperation by such foreign businesses, the advocates of AIPT will mobilize a wider support group to act individually and collectively to influence on these businesses.

AIPT operates as a largely virtual network of powerful individuals who can influence individually and collectively the decisions of corporations in the United States, Europe or other developed countries.

The effectiveness of the AIPT stems from its connections and stature, enabling the AIPT to respond strategically on a case-by-case basis. The organization of AIPT is a network of advocates. It requires sufficient funds to coordinate communication and knowledge sharing and occasional travel by a diverse group of team members.

Goals and Functions

The African IP Trust has the following initial goals and functions:

- To support and reinforce stakeholders aiming to control brands, other IP and distribution
- To support stakeholders as challenges are made to their rights
- To campaign by persuading opposing businesses, demonstrated in the Ethiopian fine coffee initiative as a successful struggle with “big coffee” over ownership of U.S. trademarks.
To benefit both importing corporations and stakeholders by reducing protracted challenges via creative use of mutually beneficial outcomes

If needed and requested, the AIPT will gradually expand to the following additional functions for groups of producers at an earlier stage of organizing to carry out an IPVC initiative:

- Develop processes for fairly determining who are relevant stakeholders with a fair claim to ownership of brands and other IP instruments
- Help stakeholders to design organizing structures, suitable for each different situation, structuring the group ownership entities for their IP (brands, trade marks, designs, trade secrets, etc.), in transparent, participatory and legally robust ways
- Facilitate membership of these organizations for all, to enable collective rights and ownership
- Provide an “umbrella” of protection for qualifying groups of IP owners, gradually extending this to tens of millions of Africans
- Advocate for balance and fairness in enforcing foreign IP in Africa, as well as African IP in other countries, increasing this advocacy as respect for IP grows in all parts of the world
- Create the ability to hold in temporary trust certain IP rights where the rights owners have not been fully identified.

The Umbrella of Protection

The vision of the AIPT is to become a known and respected entity whose model of power and influence toward corporate collaboration with low-income African stakeholders will achieve impact and earn a respect by Africans and importing corporations.

As the AIPT repeatedly achieves successful outcomes of its advocacy, ultimately the backing of the AIPT for an African stakeholder group should be sufficient leverage to reduce the opposition and reduce misuse of African IP rights. Being able to help towards positive outcomes with gradually reducing need to campaign, the AIPT can then extend its protection, like an umbrella, over the rights of a larger number of low-income rights owners and producers.

FREQUENTLY ASKED QUESTIONS

How is the African IP Trust related to Light Years IP?

Ron Layton conceptualized the African IP Trust, based on his experience in enforcing IP rights worldwide and drawing from the willingness of many organizations and individuals to support the Ethiopian fine coffee case. In 2006, influencing Starbucks to accept Ethiopian ownership of trademarks and right to licensing was a long, uphill fight, which was eventually achieved by very personal individual influence on the chairman of Starbucks. It has long been Ron's vision that a supportive entity, already knowledgeable about IPVC strategies but independent from Light Years IP, could serve as an effective, supportive collective group carrying out one narrow function – support on request from stakeholders. The African IP Trust is a project of Light Years IP.

Why is an African IP Trust needed?

Light Years IP has developed IP Value Capture strategies for over 20 large groups of African stakeholders, with strategic interventions in the supply chain that varies on a case by case basis. African stakeholders have for too long been in a position of dependency upon foreign commodity markets, where most of the retail price of their distinctive products has been taken. As African stakeholders IPVC strategies are implemented, the AIPT can assist by influencing foreign businesses who currently exploit the stakeholder's market and IP rights.

IPVC involves changing fundamental patterns and assumptions held by foreign business that often assume a powerful and exploitive position toward African stakeholders, their IP rights, and their well-deserved income. To alter this pattern involves changing the power balance, alongside and in concert with the IPVC strategies. Ron Layton's vision is that an effective, advocacy body, such as the AIPT, can be instrumental when called upon to do so, given the powerful positions its members hold in global society, coupled with their passion for human rights.

What exactly will the AIPT DO?

The AIPT functions will vary, depending upon the IPVC strategy, but will involve a range of functions from simple to more complex:

- Purposeful letter writing
- Supportive attendance at functions to build encouragement and solidarity
- Engagement of the AIPT political network of supporters, other influential contacts and the power of its social network
- Collective action such as persuading corporate individuals
- Collective letter-writing
- Individual and collective meetings with corporate individuals
- Advancing the African stakeholder networks of influence.

For example, corporations who exploit African rights may or may not be fully knowledgeable about the effect of their actions. At times, awareness-building and individual contacts will be useful; at others, a collective campaign, drawing upon the political and social capital of the AIPT will be needed.

What activities is the African IP Trust currently doing?

- As an example, the Maasai have formally requested AIPT support, and partnerships with the Maasai have advanced. Light Years IP has worked hard to finance a 3-year IPVC strategic initiative. It is quite likely that the AIPT will be needed during this period to help the Maasai handle opposition to their goals from businesses currently exploited the Maasai cultural brand.
- Congresswoman Diane Watson, co-chair of the AIPT hosted representatives of the Maasai in Washington, DC to demonstrate support.
- Co-chair, the Right Honorable Paul Boateng visited the Maasai to confirm the AIPT encouragement and support and has written a series of letters to corporations on their behalf to support a licensing strategy that will return income to the Maasai

- Light Years IP has brought the concept of the AIPT to the US Government through securing a federal grant and rapidly advanced with implementation
- The AIPT held an inception conference in Addis Ababa, to coalesce around its mission and organizing structure.
- The AIPT members are building allies and support for IP Value Capture opportunities.
- Light Years IP also developed a set of training modules and materials to advance the mission of the AIPT through first training its members along with its first group of stakeholders, the Maasai.
- An event to be held in July, 2012 to publicly launch the AIPT will bring press and publicity to the issue of fair African IP and advance support with a network of prominent African activists and government supporters; corporate IP supporters; and US Congress and Senators interested in advancing IP.

How will the AIPT be funded?

The creation of the AIPT is funded by a United States federal grant made to Light Years IP. Plans are being made for long term financing, which will be modest.

Where will the AIPT located?

For legal jurisdiction, much of the AIPT activities will take place in the US, Europe and other developed countries. The main office of the AIPT will be in Washington, DC and operations will occur throughout Africa. The AIPT is being registered as a Not-for-profit organization in the U.S.

How will stakeholders find the AIPT so that it can offer assistance?

The AIPT will function as a support to the IP Value Capture strategies designed and implemented by Light Years IP and its team, i.e. the AIPT will not be involved in designing strategic interventions in the supply chain, but will utilize its influence when requested by stakeholders. The reason for this is that IPVC strategies are sophisticated and involve long-term plans, feasibility studies; marketing, financial, and business strategies such as initiating a distribution company; registering certification and trademarks; designing various supply chain interventions which are not expected of the AIPT members, whose role will be expert advisement and strategic intervention as high profile individuals.

Can African stakeholders request help from the AIPT independently?

It is likely that African stakeholders will approach and request help from the African IP Trust. While not to be discouraged, it is important to understand that the AIPT would likely require detailed analysis of the the IP business opportunity. At present, this is the role of Light Years IP.