

INTELLECTUAL PROPERTY: A TOOL KIT FOR CREATIVES IN KENYA, UGANDA, AND TANZANIA

Hivos East Africa, 2022



WWW.HIVOS.ORG

Hivos
people unlimited



**STOP
SILENCING
US**



Contents

Introduction	2
1. Forms of Intellectual property rights in Kenya, Uganda and Tanzania	4
2. Definitions of Patents, Trademarks, Copyright, Utility design,	6
3. Copyright in Kenya, Tanzania and Uganda	8
4. Conclusion	22
5. Contact persons/offices	23
6. References	24

INTELLECTUAL PROPERTY: A TOOL KIT FOR CREATIVES IN EAST AFRICA

Introduction

This Toolkit is a result of several interventions that have been carried out between 2017 and 2022 by Resource Of Open Minds (R.O.O.M) project at Hivos. First, as part of project implementation, several surveys were carried out over the years that showed arts and culture practitioners needed capacity building on intellectual property (IP) rights. Second, the content of this Toolkit has been framed around a workshop on IP that was carried out in 2021 for the cohort of R.O.O.M grantees across Kenya, Uganda, and Tanzania.

The cohort of R.O.O.M grantees operate from creative hubs and communities which range from studios, cafes, production houses,

networks, platforms, collectives, libraries, and maker spaces. The creatives work across the following media: online radio programming, podcasts, music production, documentary films, data artistry, puppetry and animation, film, fashion, literature, and infomercials. They then promote their content on digital platforms like social media channels and their organizational websites.

Third, the Toolkit is a product of the understanding that creatives across East Africa are increasingly collaborating and also sharing audiences, thus the need to highlight the areas of synergy and disconnect as far as IP is concerned. Thus, the Toolkit is, generally, aimed for use by creatives in Kenya, Uganda and Tanzania.

In the above-mentioned training, the areas of focus:

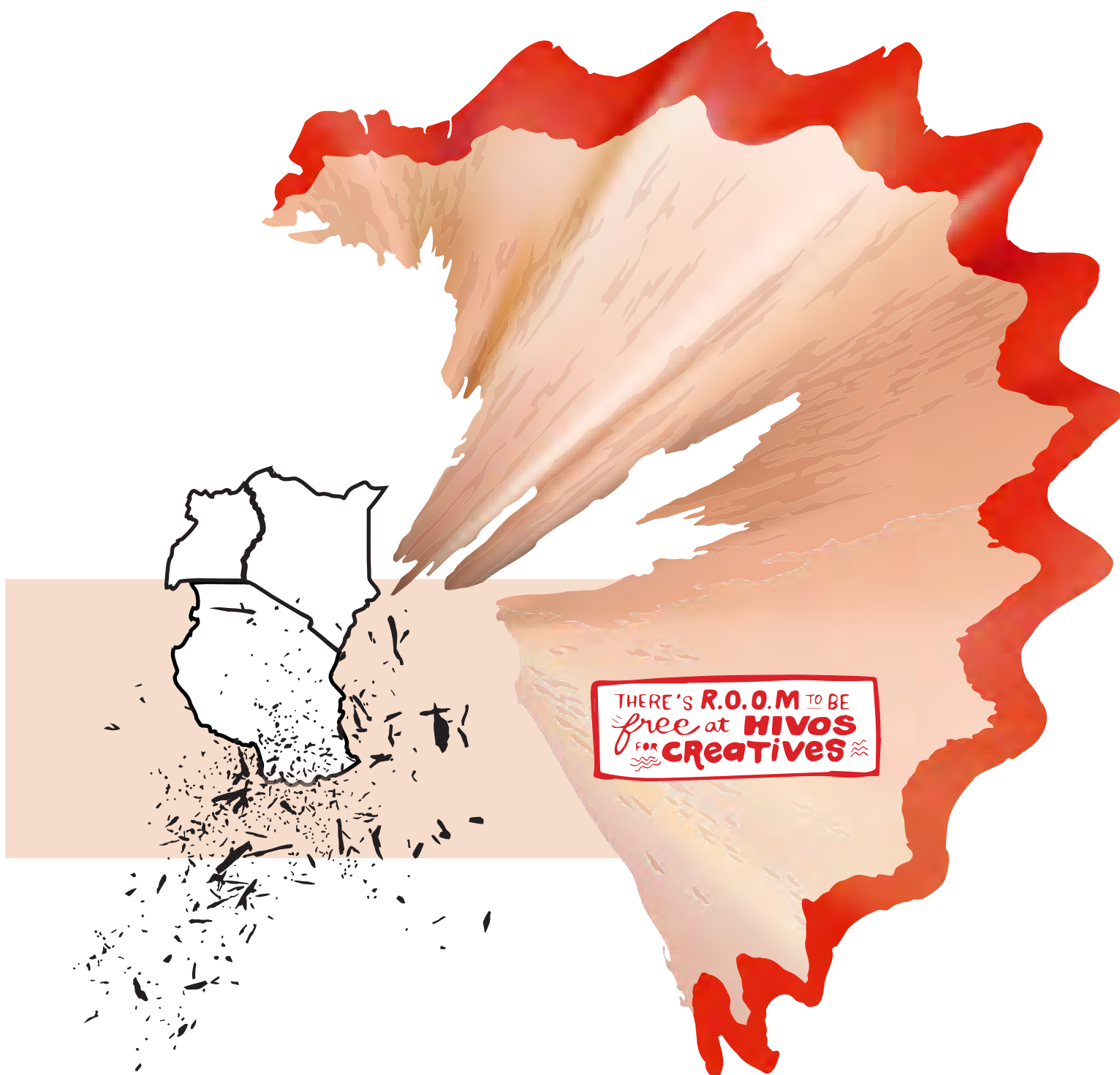
- The current IP rights structure in place;
- The various IP rights protections and management options available;
- The various ways in which IP rights will facilitate rightsholders' production and promotion of their work;
- How creatives can be more self-sufficient, independent and reach wider audiences with their creations;
- How the rightsholders can protect themselves from unauthorized third-party exploitation of their works; and
- Strategies rightsholders can use in protecting IP rights in the digital environment.

Therefore, the Toolkit provides a brief discussion on the areas mentioned above with additional resources, links, reference materials and contact offices and persons where more information on IP rights can be accessed.

In the next section, Part 2 and 3 the Toolkit discusses, generally, the forms of IP rights.

Part 4 then focuses on the scope of copyright protection in Kenya, Tanzania and Uganda. Part 6 and 7, respectively, provide links to contact persons and resource materials on IP in the region.

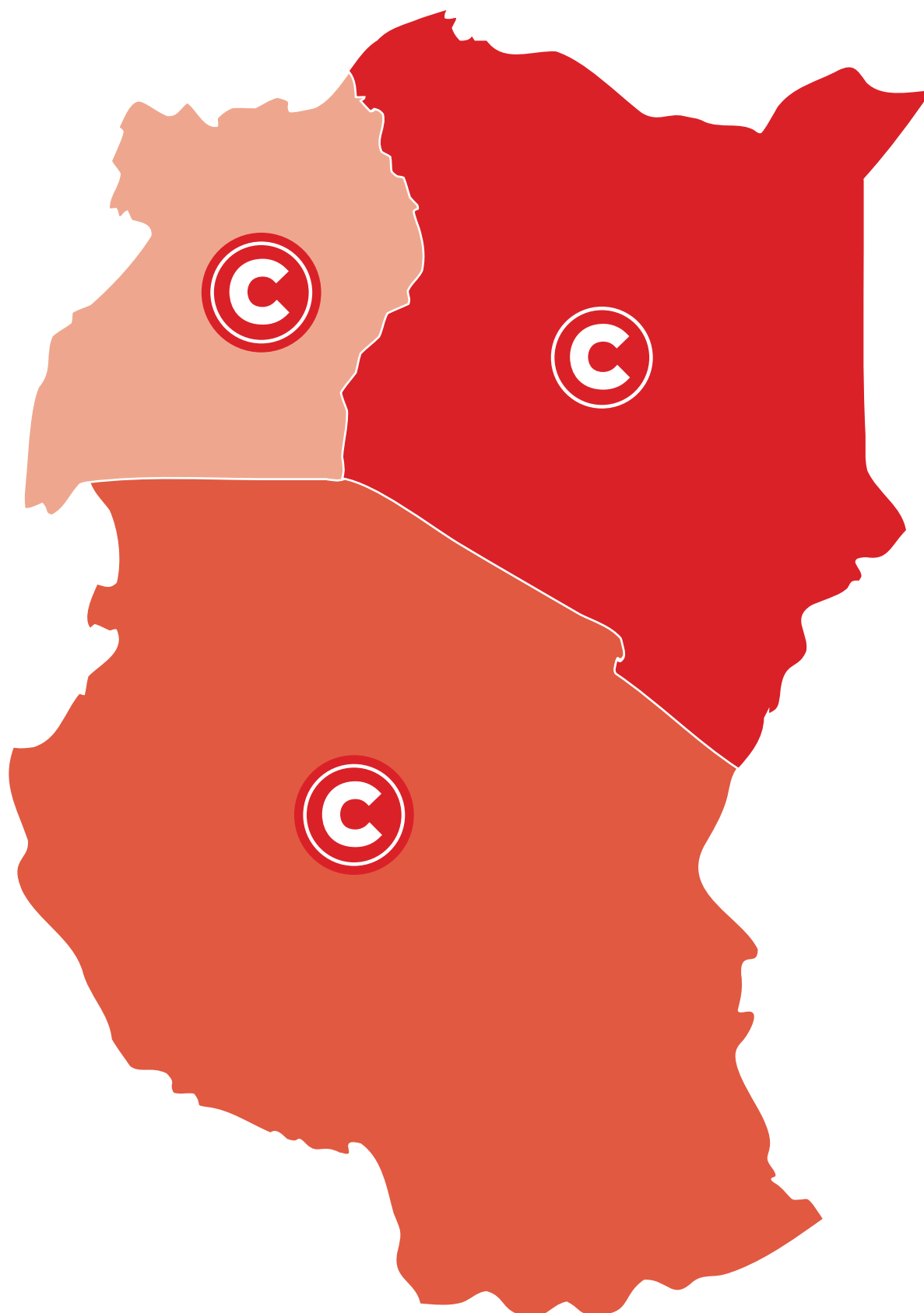
The Toolkit will be updated periodically as the IP ecosystem in the region evolves.





1. Forms of Intellectual property rights in Kenya, Uganda and Tanzania

- 1.1. Intellectual property refers to the creations of the mind.
- 1.2. This is an intangible form of property acquired when an idea is expressed in a concrete, tangible or physical embodiment.
- 1.3. Intellectual property rights are broadly divided into two categories;
 - 1.3.1. Industrial property, which includes patents for inventions, trademarks, industrial designs and geographical indicators.
 - 1.3.2. Copyright, which relates to literary, musical, audio-visual and artistic works. The rights provided under copyright also include those of performing artists in their performances, producers of phonograms in their recordings and broadcasters in their radio and television programs.
- 1.4. Intellectual property rights allow creatives or owners of the rights to benefit from their own creations and protect their moral and material interests resulting from their creations.



2. Definitions of Patents, Trademarks, Copyright, Utility design

2.1. Patents are exclusive rights granted in respect to an invention.

2.1.1. An invention is a solution to a specific problem in a field of technology and could either be a product or process that provides a new way of doing something.

2.2. With patent protection, an invention cannot be commercially made, sold, stocked or used without the patent owner's consent for a limited period.

2.3. The term of protection is twenty (20) years non-renewable in Kenya, Uganda and Tanzania.

2.4. A **trademark** is a distinctive sign or combination of signs capable of distinguishing or that identifies certain goods or services produced by a person or company. A trademark distinguishes the goods or services of one person/s or company from those of other person/s or company.

2.4.1. Trademarks may be one or a combination of words, letters and numerals, or consist of drawings, symbols or 3D signs such as the shape or packaging of goods.

2.5. Certain distinguishing features such as holograms, motion, colour, sound, smell and taste can also be trademarked in some countries.

2.6. Trademarks allow consumers to identify and purchase a product or service based on its source, characteristics or quality.

2.7. The term of a trademark may vary but can be renewed indefinitely after payment of additional fees.

2.8. The term of protection in:

2.8.1. Kenya is ten (10) years renewable same term.

2.8.2. Uganda seven (7) years renewable for ten (10) years term.

2.8.3. Tanzania seven (7) years renewable for ten (10) years term.

2.9. Utility designs or utility models are similar to patents, however they are granted to minor improvements to existing products that do not fulfil all patent requirements but are still deemed as deserving specified industrial property rights.

- 2.9.1. Even though both protect technological innovations, utility models have less stringent requirements as compared to patents.
- 2.9.2. They are therefore simpler, faster and cheaper to acquire.
- 2.9.3. However, the term of protection for utility models is shorter than that of patents and therefore, utility designs are better suited for products with small improvements or with a short commercial life.

2.10. Industrial design - Exclusive right to new or original design.

- 2.10.1. A design is new or original if significantly differs from known designs or combinations of known design features.
- 2.10.2. Term of protection in Kenya, Uganda and Tanzania is ten (10) years.

2.11. Traditional Cultural Expressions/Folklore:

- 2.11.1. Folklore is protected as a work under Copyright law regime in Uganda and Tanzania.
- 2.11.2. In Kenya, **Traditional Cultural Expressions** refer to any form, whether tangible or intangible, in which traditional culture and knowledge are expressed, appear or are manifested.

In the next section the focus will be on copyright laws in Kenya, Tanzania and Uganda. Copyright refers to the collective economic and moral rights that belong to a creative from the creation of a work of art. This special focus on copyright is informed by the scope of work and media used by the current cohort of R.O.O.M creatives which is online radio programming, podcasts, music production, documentary films, data artistry, puppetry and animation, film, fashion, literature, and infomercials.

3. Copyright in Kenya, Tanzania and Uganda

Requirements for Copyright protection:

There are no formalities required before an author can acquire copyright, however, the author acquires copyright in their work once they fulfil these conditions:

Kenya

1. First is to express their work in a material form and
2. Second, the work must be original. This means that sufficient effort, such as skill labour or judgement has been applied in the creation of the work to give it an original character.
3. Additionally, the work must be fixed, meaning that the work has been written down, recorded or otherwise reduced to a material form or a tangible medium.

Tanzania

1. The work must be original. This means that there must be some skill, labour, and judgement applied in the creation of the work to give it a unique or original character.
2. The work must also be fixed. This means that the work must be embodied in a form, on a medium through which it can be distributed to the public or be perceived by the senses. This could be a physical or digital medium.

Uganda

- The work must meet the following conditions;
1. Original meaning that the work is the product of the independent efforts of the author.
 2. Fixed or reduced to a material for. This means that the work must be embodied in a form, on a medium through which it can be distributed to the public or be perceived by the senses. This could be a physical or digital medium.

Works that can be protected

Kenya

1. A literary, musical, dramatic or artistic work;
2. a photograph;
3. a sound recording;
4. audio-visual works;
5. a broadcast;
6. a published edition; or
7. a literary, dramatic, musical or artistic work or computer program which is computer generated.

Tanzania

1. Dramatic and dramatic-musical works
2. Books, pamphlets and other writings including computer programs
3. Lectures, addresses, sermons and other works of a similar nature
4. Musical works, both vocal and instrumental, irrespective of whether or not they include accompanying words
5. Choreographic works and pantomimes, cinematographer works and other audio-visual works
6. Works of drawing, painting, architecture, sculpture, engraving, lithography and tapestry
7. Photographic works, including works expressed by processes similar to photography
8. Works of applied art, whether handicraft or produced on an industrial scale
9. Illustrations and 3D works in relation to topography, architecture or science
10. Derivative works are also protected as original works of art and acquire copyright protection upon obtaining permission from the author of the prior original work before making a derivative work.

Uganda

1. Articles, books, pamphlets, lectures etc. and other works of a similar nature
2. Dramatic, dramatic-visual, and musical works
3. Audio-visual works and sound recordings, including cinematographic works and works of a similar nature
4. Audio-visual fixation means work consisting of a series of related images which impart the impression of motion, with or without accompanying sounds, susceptible of being made visible and where accompanied by sound, susceptible of being audible as cinema, television, or video films
5. Choreographic works and pantomimes
6. Computer programmes and electronic data banks
7. Works of drawing, painting, photography, typography, mosaic, architecture, sculpture, engraving, lithography, and tapestry
8. Works of applied art (handicraft/ produced on industrial scale) and all types of designing
9. Illustrations, maps, plans, sketches, and 3-D works related to geography, topography. Architecture or science
10. Derivative work such as Translations, adaptations and other transformations of pre-existing works or Collections of pre-existing works like encyclopedias and anthologies, which by their unique selection and arrangement of content constitute original works which by selection and arrangement of its content, constitutes original work. The protection of derivative works does not affect the protection of the original work.

Works not protected

Generally, ideas, concepts, or procedures or things of a similar nature are not protected since there is neither fixation nor exercise of skill or independent effort by an author.

Kenya

Ideas, procedures, methods of operation, concept principles, discovery, or mere data

Tanzania

Ideas, procedures, methods of operation, concept principles, discovery, or mere data

Uganda

1. Ideas, concepts, procedures, methods, or things of a similar nature are not protected since there is neither fixation nor exercise of skill or independent effort by an author.
2. Public benefit works such as Acts, statutory instruments, decrees, court decisions, reports by government committees or news, in particular reports of fresh events or current information by the media (irrespective of the media) communicated to the public



Forms of ownership

Copyright originally belongs to the author of a work of art.

However, depending on the terms under which the work was created, the copyright can be owned by someone other than the author of a work of art.



Kenya

1. Copyright originally belongs to the author of a work of art.
2. However, where the work was commissioned by a person who is not the author's employer, the copyright is owned by the person who commissioned the work.
3. Additionally, where the work is made in the course of the author's employment, the copyright is owned by the author's employer.

Tanzania

1. Copyright originally belongs to the author of a work of art.
2. However, where the work was commissioned by a person who is not the author's employer, the copyright is owned by the person who commissioned the work.
3. Additionally, where the work is made in the course of the author's employment, the copyright is owned by the author's employer.

Uganda

1. Where the work is created in the course of employment by another person or on commission, in the absence of a contract to the contrary, the work vests in the employer or commissioner.
2. Where the work is created under the direction or control of the Government, or prescribed by an international body, unless agreed otherwise, the work vests in the government or the international body.
3. Where the work is co-authored (created by more than one person) and no part is identified to have been made by either person such that the work is indistinguishable, the authors shall be equal co-owners of the economic and moral rights in the work.

Economic Rights granted to an author

Economic rights allow the creator to derive economic benefits whenever others use their work.

Kenya

1. Reproduction of the original work;
2. Translation or adaptation of the work;
3. Distribution to the public of the work;
4. Communication to the public of the whole work or a substantial part of it, either in its original form or in any form recognizably derived from the original;
5. The making available of the whole work or a substantial part of it, either in its original form or in any form recognizably derived from the original;
6. The broadcasting of the whole work or a substantial part of it, either in its original form or in any form recognizably derived from the original.

Tanzania

1. The right to:
 - a. Reproduce
 - b. Distribute
 - c. Rent the original or copy
 - d. Exhibit publicly
 - e. Import copies
 - f. Communicate to the public

Uganda

1. Publish, produce, or reproduce the work;
2. Distribute or make available to the public, original or copies of the work, by sale or any other means of transfer of ownership;
3. Perform the work in public;
4. Communicate the work to the public by wire or wireless means or through the internet in such a way that members of the public may access the work from a place and time of their choosing;
5. Where the work is a pre-existing work, to make a derivative work;
6. To commercially rent or sell the original or copies of the work;
7. To reproduce transcription into braille which is accessible to blind persons; and
8. To do anything in relation to that work.

Moral rights

Moral rights protect the non-economic rights of the author and allow them to claim authorship and protect their reputation in relation to the work.

Moral rights cannot be transferred during the lifetime of the author unless upon their death through a will or by law.

Kenya

1. Moral rights give the creative the right to be acknowledged as the author of and the right to maintain the integrity of their work.
2. The moral rights allow the author to claim authorship of the work, object to, and seek relief for any distortion, mutilation or other modification or other derogatory action in relation to the work that would be prejudicial to their honour or reputation.
3. Moral rights cannot be transferred during the lifetime of the author unless upon their death through a will or by law.

Tanzania

1. Claim authorship of the work, and that his authorship be indicated in relation to any of the acts above; and
2. Object to, and seek relief in connection with any distribution, mutilation, other modification, and any other derogative action in relation to his work that would be prejudicial to his honour or reputation.
3. Non transferrable

Uganda

1. Claim authorship of that work, unless it is included incidentally or accidentally in reporting current events;
2. Have their name or pseudonym mentioned or acknowledged each time the work is used or wherever any of the economic rights is exercised in relation to the work;
3. Object to and seek relief in connection with any distortion, mutilation, alteration, or modification of the work and any other derogative action in relation to his work that would be prejudicial to his honour or reputation;
4. Withdraw the work from circulation if it no longer reflects the author's convictions or intellectual concepts.

Term of protection

Generally, a creative enjoys the protection of their copyright during their **lifetime and 50 years** after their death.

Kenya

1. **Literary, musical, dramatic or artistic works**, other than photographs, **fifty (50) years** after the end of the year in which the author dies.
2. **Audio-visual works and photographs**, copyright expires **fifty (50) years** from the end of the year in which the work was either first published or first made available to the public, whichever is latest.
3. **Sound recordings**, copyright expires **fifty (50) years** from the end of the year in which the recording was made.
4. **Broadcasts**, copyright expires **fifty (50) years** from the end of the year in which the broadcast took place.
5. Published anonymously or under a pseudonym, copyright expires 50 years from the end of the year in which it was first published, provided that the identity of the author shall not be known during the term of copyright
6. Jointly authored, the copyright shall expire 50 years from the end of the year in which the last author dies.

Tanzania

1. A creative enjoys the protection of their copyright during their lifetime and **fifty (50) years** after their death.
2. Where the work is created **jointly with another person**, copyright is protected during the life of the last surviving author and **fifty (50) years** after their death.
3. Where the work is published anonymously or under a pseudonym, copyright is protected for **fifty (50) years** from the date of creation or date of first making the work available to the public, or date of publication (whichever is latest) as long as the author's identity is not revealed or no longer in doubt.
4. For audiovisual works in particular, the copyright is protected for **fifty (50) years** from the date on which the work was first made available to the public or the date of publication (whichever is latest).
5. For works of applied art in particular, copyrights are protected for **twenty (25) years** from the making of the work.

Uganda

1. The economic rights of the individual author are protected during the life of the author and **fifty (50) years** after their death.
2. Where the work was **jointly authored, the economic rights** are protected during the life of the last surviving author and **fifty (50) years** after their death.
3. Where the work is owned by a **corporation, the economic rights** are protected for **fifty (50) years** from the date of the first publication of the work.
4. Where the work is published anonymously or under a pseudonym, the economic rights are protected for fifty (50) years from the date of first publication of the work.
5. Where before the expiration of **fifty (50) years** the identity of the author is known, the economic rights are protected during the lifetime of the author and **fifty (50) years** after their death.
6. In the case of an **audio-visual work, sound recording or broadcast**, the economic rights of the author are protected for **fifty (50) years** from the date of making the work, or from the date the work is made available to the public with the consent of the author.
7. In the case of a **computer program, or photographic work**, the economic rights of the author are protected for **fifty (50) years** from the date of making the program available to the public.

Licensing:

A license is permission granted to another person to use the economic rights in respect to a work as mentioned above.

Kenya

The two types of licenses are:

1. **An exclusive license** allows the licensee to carry out the licensed activity and exclude the author and any other owner of copyright in the work of art. It is only valid if it is in writing and signed by both parties.
2. **A non-exclusive license** allows the licensee to carry out the act concerned at the same time as the author or other owner of the copyright, and any other possible non-exclusive licensees.
3. This a license may be written, oral or inferred from conduct and may be revoked at any time. However, where the license is granted by contract, it shall not be revoked except as provided in the contract, or through another contract.
4. Unless the contract provides for a shorter period, **a license expires 3 years after the conclusion of the contract.**

Tanzania

Economic rights in respect to a work as mentioned above can be wholly or partially permitted to be used by another person when this is set out in form of a written contract and signed by both parties.

1. A creative can also grant an **exclusive or non-exclusive** license to carry out some activities in relation to the work of art.
2. **An exclusive license** allows the licensee to carry out the licensed activity and exclude the author and any other owner of copyright in the work of art.
3. Such a license is only valid if it is written and signed by both parties.
4. Unless the contract provides for a shorter period, the license expires 15 years after the conclusion of the contract.
5. **A non-exclusive license** allows the licensee to carry out the act concerned at the same time as the author or other owner of the copyright, and any other possible non-exclusive licensees.

A user of a work of art, either an assignee or licensee, can only transfer the rights given to them under a contract for use of the work with the consent of the copyright owner.

Uganda

Economic rights in respect to a work as mentioned above can be wholly or partially permitted to be used by another person if:

1. the written contract is signed by the copyright owner (or their agent) and by the person to whom the rights are being assigned or transferred and is only limited to the use, period and country provided in the contract.
2. A licensing contract may either be oral, written or inferred from conduct or circumstances. Such a license may either be **exclusive or non-exclusive**.

The scope of a non-exclusive license is limited to:

1. **A non-exclusive** right to translate the work into the language in respect of which it is granted;
2. Non-exclusive right to reproduce the work as provided in the license; and
3. The purposes of teaching, scholarship or research.

Additionally, a non-exclusive license is only issued until after 1 year from the date of publication in a material form.

Infringement:

Infringement generally happens where a person exploits the economic or moral rights of an author either without their consent or acknowledgement, or both.

Kenya

Any person who:

1. **does or causes to be done**, any act controlled by the copyright owner; or
2. **imports, or causes to be imported**, other than for his private and domestic use, an item/s which he knows to be an infringing copy.
3. **circumvents any effective technological protection measure** designed to protect works; or
4. **manufactures or distributes devices** which are primarily designed or produced for the purpose of circumventing technological protection measures designed to protect works; or
5. **removes or alters any electronic rights management information**; or
6. **distributes, imports, broadcasts or makes available to the public, protected works**, records or copies from which electronic rights management information has been removed or has been altered without the authority of the right holder.

Tanzania

Infringement of copyright happens where a person, without a valid transfer, license, assignment or any other authorisation, deals with any work or performance contrary to the permitted free use and does or causes to be done any of the economic or moral rights listed above.

Uganda

Deals with any work or performance contrary to the permitted free use and **does or causes to be done** any of the following:

1. **Reproduction, fixation, duplication, extraction, imitation or importation** into Uganda otherwise than for his own private use;
2. **Distribution** in Uganda by way of sale, hire, rental or like manner;
3. **Exhibition to the public for commercial purposes** by way of broadcast, public performance or otherwise; or
4. **Use of the work in a manner prejudicial to the honour or reputation of the author.**

A person who, without the authorisation of, or license from the rights owner (or their agent):

1. **Publishes, distributes or reproduces** the work;
2. **Performs** the work in public;
3. **Broadcasts** the work;
4. **Communicates** the work to the public; or
5. **Imports** the any work and uses it in a manner which, were it work made in Uganda, would constitute a copyright infringement

Remedies

The rights holder has primary responsibility in enforcing Copyright.

Infringement is actionable both as a civil suit and a criminal offence.

Kenya

1. By the owner of the right as a **Civil suit** begin by issuing Cease and Desist and Take Down Notice, a Demand letter or instituting a claim in Court for relief such as damages, injunction, accounts. **(Has to be done within six (6) years from infringement date)**
2. By the owner of the right as a **criminal offence** by lodging a Complaint at the Kenya Copyright Board within **three (3) years from infringement date)**

Tanzania

1. By the owner of the right as a **Civil suit** begin by issuing Cease and Desist and Take Down Notice, a Demand letter or instituting a claim in Court for relief such as damages, injunction, accounts.
2. **Criminal offence** where the penalty is either a fine or imprisonment or both.

The fine or term of the imprisonment is dependent on the nature of the offence.

Uganda

1. By the owner of the right as a **Civil suit** begin by issuing Cease and Desist and Take Down Notice, a Demand letter or instituting a claim in Court for relief such as damages, injunction, accounts.
2. **Criminal offence** where the penalty is either a fine or imprisonment or both.

The fine or term of the imprisonment is dependent on the nature of the offence.

Exceptions and limitations:

A third party or another person is permitted to use a work protected under copyright without the author's/creative's consent and the obligation to pay for the use of the work under fair dealing cases such as:

Kenya

Exceptions are as provided by statute which are:

1. Fair dealing for the purposes of scientific research, private use, criticism or review, or the reporting of current events; parody, pastiche or caricature;
2. the reproduction and distribution of copies or the inclusion in an audiovisual work or broadcast, of an artistic work situated in a place where it can be viewed by the public;
3. the incidental inclusion of a copyright work in an artistic work, sound recording, audio visual work or broadcast;

The fair dealing use is limited to the abovementioned cases and the author/s have to be acknowledged.

Tanzania

The following uses of a protected work, either in original or translation, are allowed without the author's consent and the obligation to pay for the use of the work:

1. Where the work is exclusively for the user's own personal private use;
2. Where the work is utilised for teaching purposes;
3. Where the work is used for the purposes of reporting a current event; and
4. The reproduction by public libraries, non-commercial documentation centres, scientific institutions and educational establishments works which have already been lawfully made available to the public.

However, the use must be fair and the source and name of the author must be mentioned.

Uganda

The fair use of a protected work in its original language or in a translation is not an infringement of the right of the author in cases where:

1. The production, translation, adaptation, arrangement or other transformation of the work is for private personal use only;
2. a quotation from a published work is used in another work
3. a published work is used for teaching purpose;
4. the work is communicated to the public for teaching purposes for schools, colleges, universities or other educational institution or for professional training or public education;
5. the work is reproduced, broadcast or communicated to the public with acknowledgement of the work, in any article printed in a news paper, periodical or work broadcast on current economic, social, political or religious topic;
6. any work that can be seen or heard is reproduced or communicated to the public by means of photograph, audio-visual work or broadcast to the extent justified for the purpose when reporting on current events;
7. any work of art or architecture in a photograph or an audio-visual or television broadcast is reproduced and communicated to the public where the work is permanently located in a public place or is included by way of background or is otherwise incidental to the main object represented in the photograph or audio-visual work or television broadcast;
8. for the purposes of current information, a reproduction in the press, broadcast or communication to the public
9. subject to conditions prescribed by the Minister, a reproduction of a literary, artistic or scientific work by a public library, a non-commercial documentation centre, a scientific institution or an educational institute if the reproduction and the copies made— (i) do not conflict with the normal exploitation of the work reproduced; (ii) do not unreasonably affect the right of the author in the work; and
10. any work is transcribed into braille or sign language for educational purpose of persons with disabilities.

Artist resale right

Artist resale right enables an artist or group of artists or successors to receive resale royalty on commercial resale of an artwork. A commercial resale is the subsequent re-transfer of ownership in artwork from one person to another for monetary consideration with the involvement of an art market professional, an auction house or a gallery.

Kenya

1. Artist resale right is **payable at royalty rate of five (5%) percent** of the net sale price on the commercial resale of an artwork.
2. The seller, the art market professional, the seller's agent and the buyer are all liable to pay the resale royalty
3. Artists resale right is valid as long as copyright continues to subsist in an original work of art.
4. Management of resale royalty right is through a collective management organization.
5. collective management organization is an organisation approved and authorized by the Board which has as its main object, or one of its main objects, the negotiating for the collection and distribution of royalties and the granting of licenses in respect of the use of copyright works or related rights
6. Exceptions to Resale Royalty Right are when the Sale price is less than twenty thousand shillings (20,000); an auction for charitable purposes; and works of fine art produced are of identical copies

Tanzania

1. The author of an original or applied fine artwork has an inalienable right to a share in the proceeds of that work through a dealer or by any other means after the first transfer of ownership as long as copyright subsists in the work .
2. Authors of an original work of art enjoy the right to a share of proceeds through a public auction or dealer subject to value or a rate set by the Minister.
3. The term of protection lasts for as long as copyright subsists in an original work of art and is inalienable and cannot be waived under any circumstances
4. The rate at which the royalties are enjoyed by the artist is **5% of the net sale price** of the commercial resale of artwork

Uganda

For fine artworks or applied fine artwork in particular, the author has an inalienable right to share in the proceeds of each sale by public auction, through a dealer or whatever means except auction for fundraising purposes.

State Agencies

Kenya

In Kenya, they are licensed and supervised by the Kenya Copyright Board (KECOBO).

The five (5) CMOs currently licenced by KECOBO are;

1. The Reproduction Rights Society of Kenya (KOPIKEN)
2. Kenya Association of Music Producers (KAMP)
3. Music Copyright Society of Kenya (MCSK)
4. The Performers Rights Society of Kenya (PRISK)

KECOBO offices are located on the 5th floor of the NHIF Building along Community Ragati Road in Nairobi.

Tanzania

The competent authority in Tanzania that creatives may register their copyrights with is the Copyright Society of Tanzania (COSOTA).

1. COSOTA assists in the licensing, monitoring the use of works and collection of royalties owed to authors of protected works.

Their offices are located in Utumishi Building along Kivukoni Road in Dar es Salaam.

Uganda

Registration is managed by the Uganda Registration Services Bureau (URSB),

In Uganda there are 3 CMO's namely:

1. Uganda Reproductive Rights Organization (URRO) for literary works;
2. Uganda Federation of Movie Industry (UFMI) for audio visual works; and
3. Uganda Performing Rights Society (UPRS) for musical works.

Their offices located on Plot 5, George Street at Georgian House, Kampala

Copyright registration

Kenya

Copyright is registered in Kenya at the [National Rights Registry](#) (NRR), which is a national central database containing details relating to copyright works of creators.

1. The NRR also contains a monitoring system which generates data to calculate royalties on the amount due and payable by the media and related uses for a given calendar period.
2. The registry allows for the upload of all copyright eligible works for the purposes of copyright registration.

In order to register copyright on the NRR,

3. create an account which requires the following details:
4. A mobile number where an activation code will be sent;
5. A valid national identity number;
6. KRA PIN;
7. A business registration number in the case of opening a corporate account; and
8. A valid email address.

Tanzania

The competent authority in Tanzania that creatives may register their copyrights with is the [Copyright Society of Tanzania](#) (COSOTA).

During registration, the following materials must be attached for the disposition purposes:

1. 2 copies of the work to be copyrighted;
2. Two passport photos of the applicant;
3. A copy of identity card or passport or National Identity card or birth certificates of the applicant;
4. A copy of identity card or passport or National Identity card or birth certificates; for next of kin;
5. Names of group members and representatives if it is a group or band or choir; and
6. Copy of an agreement, contract with other right holders regarding their contribution or ownership of the work's creativity.

For the creator of any copyright idea under the group or company, they must show the relation in a written form between the declaration and the group/company.

The declaration is free of charge subject of payment of annual subscription fees.

Creators wishing to register their works must first apply for membership to COSOTA. The following are required for membership registration;

7. Two (2) passport size photographs of the applicant;
8. A copy of identity card or passport or National Identity card or birth certificates of the applicant;
9. A copy of identity card or passport or National Identity card or birth certificates; for next of kin; and
10. Names of group members and representatives if it is a group or band or choir.

Uganda

Registration is managed by the [Uganda Registration Services Bureau](#) (URSB).

1. An application for registration is made to the Registrar of Copyright and an application fee of UGX. 50,000 paid. A copy of the work for which protection is sought must be attached.
2. The application is then published in the Uganda Gazette for 60 days.
3. If no objection is made to the registration of the said right, a certificate of registration will be issued to the applicant.
4. No fee is charged for the registration certificate.



4. Conclusion

This Toolkit is as a guide and resource material for arts and culture practitioners in Kenya, Uganda, and Tanzania on how they can better navigate the intellectual property terrain in the three countries.

This resource material is anchored on the current legal framework in Kenya, Tanzania and Uganda which may change over time. As such, users are advised to always countercheck with the current legal provisions in the respective countries or contact their copyright state offices/agencies or contact persons listed below. This Toolkit is at best a living document so regular update/s will only enrich its scope and breadth.

5. Contact persons/offices

Kenya

1. Andrew Waithumbi Ngurumi (was the lead researcher for this toolkit), Advocate, LL.B, LL.M (Intellectual Property)
Waithumbi Ngurumi & Co. Advocates,
P.O.Box 52504- 00100
NAIROBI, Kenya
Email: info@waithumbingurumiadvocates.co.ke

Uganda

1. Joel Basoga, Advocate, LL.B, B.C.L (Jesus College, University of Oxford)
Kampala, Uganda
<https://joelbasoga.com/>

Tanzania

1. Mkama Magoti Kalebu, Advocate
Endo & Co. Advocates
6th Flr, 3D Building adjacent to Watumishi House,
Magomeni Usalama
P.O.Box 76630
Dar es Salaam, Tanzania
Email: mkama.kalebu@endowoadvocates.co.tz



6. References

International Instruments

1. The Berne Convention for the Protection of Literary and Artistic Works, (as amended on September 28, 1779)
2. The Agreement on Trade-Related Aspects of Intellectual Property Rights, 1994

Kenya

1. <https://copyright.go.ke/>
2. Copyright Act No.12 of 2001 (as amended on 2019)

Tanzania

1. <http://www.cosota.go.tz/>
2. The Copyright and Neighbouring Rights Act, 1999
3. Licensing and Re-sale Regulations, 2021

Uganda

1. <https://ursb.go.ug/more-on-copyright/>
2. The Copyright and Neighbouring Rights Act, 2006
3. The Copyright and Neighboring Rights Regulations, 2010

Other resources

1. <https://cipit.strathmore.edu/blog/>
2. <https://ipkitten.blogspot.com/>
3. <https://spicyip.com/>



ACS Plaza

3rd Floor Lenana Road

P.O. Box 19875 00202 Nairobi, Kenya

T: +254 725 451 729

F: +254 789 451 729

E: eastafricainfo@hivos.org

Hivos
people unlimited