TOM MBOYA & COMPANY ADVOCATES

INTELLECTUAL PROPERTY VALUATION & COMMERCIALISATION: HOW LAWYERS CAN HELP CLIENTS LEVERAGE IP AS A BUSINESS ASSET.

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INTRODUCTION: WHY COMMERCIALISATION MATTERS FOR IP OWNERS

For years, intellectual property law practice in Kenya and much of Africa has been anchored on one core activity: **registration**. We teach creators how to file. We train lawyers to lodge applications. We celebrate certificates.

Yet beneath this procedural efficiency lies a deeper structural gap: **we are not teaching value**.

At a time when Africa is one of the fastest-growing consumer and innovation markets globally, this gap is no longer academic. It is economic. When IP is treated as a formality rather than a business asset, ownership becomes hollow and power quietly shifts elsewhere.

1. IP WITHOUT VALUE & COMMERCIALISATION IS JUST LIP SERVICE.

IP rights are meant to do more than sit in a portfolio. They are designed to generate leverage; commercial, strategic, and competitive. When innovators do not understand the value of what they own, or worse, do not fully own their rights, they lose bargaining power before negotiations even begin.

In practical terms, **IP without enforceable, well-structured ownership is not empowerment**. It is permission for other investors, distributors, platforms, or foreign partners to capture the upside.

This is how we arrive at a troubling reality: African creativity fuels global markets, yet ownership and economic benefit remain disproportionately externalised. The issue is not a lack of innovation. It is a failure of valuation and commercialisation.

2. **WHY THIS GAP MATTERS.**

A. IP Is Underutilised

Many businesses hold registered IP that never appears on their balance sheets, never informs strategy, and never attracts capital. Trademarks, patents, copyrights, and trade secrets remain dormant, legally protected, but economically silent.

B. Lawyers Often Don’t Speak the Language of Business

Traditional legal training prioritises compliance over commercial insight. As a result, many lawyers are comfortable filing rights but hesitant to advise on licensing models, valuation frameworks, revenue projections, or risk allocation. This limits our relevance at the decision-making table.

C. Policy Lags Behind Innovation Economics

Innovation today is fast, digital, and cross-border. Policy frameworks, however, often remain reactive and fragmented. Without deliberate alignment between IP law, competition policy, tax, and investment regulation, IP cannot fully function as a growth asset.

3. **IP REFRAMING THE ROLE OF IP: FROM FORMALITY TO GROWTH ASSET**

To close this gap, we must rethink IP not as an endpoint, but as a **starting point**. Registration establishes ownership. **Valuation and commercialisation activate it.**

This shift requires lawyers, policymakers, and stakeholders to engage with IP the same way investors and founders do as an asset capable of generating revenue, attracting capital, and shaping market position.

4. **WHAT YOUNG LAWYER (AND STAKEHOLDERS) SHOULD BE DOING DIFFERENTLY**

A. Learn How IP Creates Revenue

Understanding IP valuation is no longer optional. Lawyers should be conversant with: Licensing and royalty structures, Assignment and joint-venture models, Brand valuation principles and IP-backed financing and collateralisation.

B. Partner With Business and Innovation Ecosystems

The future of IP practice is collaborative. Lawyers must work alongside: Founders and product teams, Accountants and valuation experts, Investors and venture builders to name a few. These partnerships ensure IP advice is grounded in market realities, not just statutes.

C. Shift From "Filing" to "Advising"

The most impactful IP lawyers will not be measured by how many applications they file, but by how effectively they help clients like SMEs and startups retain ownership, negotiate fair value for licensing and royalties, and structure sustainable growth for advisory-driven IP practice empowers clients to make informed decisions early.

5. **CONCLUSION: A CALL FOR DELIBERATE ACTION**

As I delicately pen off, I would be remiss if I don't acknowledge that closing the IP valuation and commercialisation gap is not about abandoning registration but rather it is about **completing the conversation**.

If Kenya and Africa at large is to fully benefit from its innovation economy, IP must be treated as infrastructure; something that actively and conciously supports growth, scales businesses, and preserves ownership over time. We at **TOM MBOYA & COMPANY ADVOCATES** understand this with our very able Intellectual Property lawyers team that is at the forefront at teaching why intellectual property valuation matters, how commercialisation turns IP into revenue, and why lawyers must advise clients on strategic IP ownership to help them scale their ideas boldly.

We thus reiterate that treating IP as an infrastructure is both a responsibility and an opportunity for lawyers. For as you have learnt, IP without valuation and commercialization is just lip service.

Book an IP consultation with us!

ABOUT THE AUTHOR .

Adv. Elizabeth Mboya is a Kenyan advocate with a focused practice at the intersection of **intellectual property, innovation, and emerging technologies**. She advises innovators, entrepreneurs, and growth-oriented businesses on how to protect, value, and commercialise intellectual property in today's digital economy.

Her work is grounded in a strong understanding of **IP valuation and commercialisation**, moving beyond traditional registration to position intellectual property as a **strategic commercial asset** capable of driving revenue, investment, and long-term enterprise value. She brings a practical, business-minded approach to legal advisory, informed by both local realities and global best practices.

Elizabeth holds **specialised certifications in Intellectual Property from the World Intellectual Property Organization (WIPO)** and **Artificial Intelligence from the University of Helsinki**, equipping her with the technical and commercial insight required to advise in innovation-driven and technology-enabled sectors.

A strong advocate for a future where **law, innovation, and humanity intersect**, Elizabeth believes the legal profession must evolve from a reactive role to a value-creating one. Through her writing, advisory work, and thought leadership, she champions practical, human-centred, and commercially relevant legal solutions that create lasting impact.

CONTACT INFORMATION

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