

Major Innovations in OAPI: The Revised Bangui Agreement

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After 3 years of waiting, the African Intellectual Property Organization (OAPI) unveiled on October 22, 2018 the major changes of the revised Bangui Agreement (revised on the 14 December 2015 in Bamako, Mali).

These changes were driven by OAPI's concern to improve on the quality of its operating procedures and rules and to stay in conformity with international instruments which they are party to.

The revised Bangui Agreement will bring the following new features:

GENERAL PROVISIONS:

- OAPI is now competent to handle opposition cases on all Industrial Property Titles (Patents, Industrial Designs etc.)
- The opposition period is now 3 months for all types of contentious actions (opposition or claim).
- Appeal against rejection of an application, is now two months from the date of notification.
- It is now possible to defer payment of official fees until 1 month after filing.
- Civil courts can now rule on the validity of all IP titles which will be enforced on all member states.
- All applications will be subject to substantive examination.
- No more need for a certificate of non-cancellation of before carrying out the infringement seizure.
- Alternative Dispute Resolution is available and optional for parties.
- New border control measures on certain IP titles
- Increase in legal sanctions for counterfeiting (up to 45,734 euros for trademarks)
- Possibility to file ownership claim before the civil courts

ZOOM on Trademarks:

- Audible signs – sounds and musical phrases can be protected as trademark.
- Certification marks can now be protected.
- Products and Services can be filed on a single application.
- The opposition period is three months from the date of publication. Note that publication will precede registration.
- All applications will be subject to substantive examination.
- Division of trademark now applicable.

If there is any doubt about the registrability of part of the classes of the goods/services or part of the goods/services designated for the trademark application After a trademark has been registered, division of the trademark rights may be made because of any dispute case, so as to ensure the rights to each single trademark and the scope of use thereof, or to maintain the trademark rights that are not in conflict with others.

There is no need to file a trademark before filing a *Claim of Ownership action*. *The trademark in question will be conferred to the rightful owner after the ruling.*

The changes are not yet implemented and applied for a while.

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