



**ARMENIAN BAR ASSOCIATION  
IP /IT COMMITTEE**

**SECOND REPORT  
ANALYZING INTELLECTUAL PROPERTY-RELATED CHALLENGES AND  
SOLUTIONS IN ARMENIA,**

**EXPERT CONCLUSIONS AND RECOMMENDATIONS**

**ON**

**INTELLECTUAL PROPERTY RIGHTS PROTECTION & ENFORCEMENT**

**FOR ARMENIAN INNOVATION AND GROWTH WITH AN IMPACT ON ARMENIA,  
EAST EUROPEAN AND ASIAN REGIONS**

**OCTOBER 29, 2023**

**YEREVAN, ARMENIA  
NEW YORK, UNITED STATES**

**TABLE OF CONTENTS**

<b>EXECUTIVE SUMMARY.....</b>	<b>1</b>
<b>OVERVIEW OF CHANGES TO IP LAWS AND REGULATIONS THAT HAVE OCCURRED     IN ARMENIA SINCE THE FIRST REPORT .....</b>	<b>1</b>
<b>OVERVIEW OF THE IMPLEMENTATION STATUS OF THOSE CHANGES.....</b>	<b>1</b>
<b>CURRENT ISSUES AND IMMEDIATE STEPS TO COMPLETE IMPLEMENTATIONS OR     START EXECUTIONS.....</b>	<b>2</b>
<b>ISSUE 1.0 AWARENESS BUILDING AND COOPERATION .....</b>	<b>4</b>
<i>Sub-Issue 1.1 - WORLD INTELLECTUAL PROPERTY ORGANIZATION (WIPO) ENGAGEMENT.....</i>	<i>4</i>
<i>Sub-Issue 1.2 - POSSIBILITIES OF COOPERATION WITH U.S. EMBASSY IN YEREVAN.....</i>	<i>5</i>
<i>Sub-Issue 1.3 - POSSIBILITIES OF COOPERATION WITH THE USPTO .....</i>	<i>8</i>
<i>Sub-Issue 1.4 - LEGAL AND ECONOMIC REASONS FOR DEARTH OF PATENT APPLICATIONS AT THE     ARMENIAN INTELLECTUAL PROPERTY OFFICE.....</i>	<i>8</i>
<i>Sub-Issue 1.5 - GAPS IN AIPO STAFF KNOWLEDGE AND RESOURCES .....</i>	<i>9</i>
<b>ISSUE 2.0 AIPO TECHNOLOGICAL ISSUES AND INFRASTRUCTURE IMPROVEMENTS .....</b>	<b>12</b>
<i>Sub-Issue 2.1 - ARMENIA’S INTELLECTUAL PROPERTY OFFICE’S (AIPO’S) INTEGRATION WITH THE     DIGITAL ACCESS SERVICE (DAS) SYSTEM.....</i>	<i>14</i>
<i>Sub-Issue 2.2 - UPDATE OF THE AIPO WEBSITE .....</i>	<i>16</i>
<i>Sub-Issue 2.3 - System for Application Prosecution Tracking and Case Status Checking at AIPO .....</i>	<i>18</i>
<i>Sub-Issue 2.4 - SYSTEM FOR IDENTITY VERIFICATION AND DIGITAL SIGNATURE ACCEPTANCE FOR     ELECTRONIC APPLICATION SUBMISSIONS .....</i>	<i>20</i>
<b>ISSUE 3.0 DETERMINING THE QUALIFICATION/EDUCATION LEVEL AND SENSITIVITY OF THE JUDGES TO NUANCED IP ISSUES .....</b>	<b>24</b>
<b>ISSUE 4.0 DEFICIENCIES IN CUSTOMS PROCEDURE.....</b>	<b>26</b>
<i>Sub-Issue 4.1 - Existing Rules &amp; Laws .....</i>	<i>26</i>
<i>Sub-Issue 4.2 - Model Jurisdiction &amp; Frameworks.....</i>	<i>27</i>
<i>Sub-Issue 4.3 - Proposed Solution(s).....</i>	<i>28</i>
<b>ISSUE 5.0 ESTABLISHING EFFECTIVE REMEDIES &amp; SANCTIONS .....</b>	<b>30</b>
<b>Acknowledgements.....</b>	<b>33</b>
<b>Authors/Contributors/Reviewers.....</b>	<b>33</b>

## **IP Protection & Corporate Law Improvement Report**

**October 29 , 2023 EVN-NYC**

### **EXECUTIVE SUMMARY**

In the evolving landscape of Intellectual Property (IP) law in Armenia, significant legislative advancements and strategic reforms have been undertaken since the first report by the Armenian Bar Association's IP/IT Law Committee. This second report provides a comprehensive analysis of the progress made, the implementation status of new IP laws, and the current challenges that remain. It reflects on the strides taken towards aligning Armenia's IP framework with international standards, while also highlighting the imperative need for continued development in legal infrastructure, awareness, and cooperation to fully realize the potential of these reforms.

### **OVERVIEW OF CHANGES TO IP LAWS AND REGULATIONS THAT HAVE OCCURRED IN ARMENIA SINCE THE FIRST REPORT**

Since the publication of the Armenian Bar Association's IP/IT Law Committee's first report, Armenia has made significant strides in updating its intellectual property (IP) laws. Notably, the Republic of Armenia (RA) Civil Code has been amended to address various aspects of IP law. Key changes include:

- A pending change to RA Civil Code Article 1137, which will revise the framework for copyright infringement damages, is awaiting final government approval to be introduced as new draft legislation.
- Reviews and discussions regarding potential changes to Articles 1136, 1155, 1165, 1178 which deal with liabilities for copyright infringement, unauthorized use of works, patent violations, and the unlawful use of undisclosed information.
- The RA Law on Patents has been revised to allow the patenting of computer algorithms and software, provided they meet the other requirements of patentability.
- Changes to the Rules for Filing and Examination of Applications for Inventions at the Armenian Intellectual Property Office (AIPO) to accommodate full comprehensive substantive examinations and the examination of software inventions.
- Article 42 of the new Law has been updated to allow a three-month period for the submission of Armenian translations of required documents.
- The new patent law and regulations now mandate comprehensive examinations at AIPO, with Articles 38 and 52 providing for a "short" 10-year unexamined patent and a 5-year period to request a full examination for a full-term 20-year patent.

### **OVERVIEW OF THE IMPLEMENTATION STATUS OF THOSE CHANGES**

The implementation of these laws has been progressive, albeit with some areas still pending

## **IP Protection & Corporate Law Improvement Report**

**October 29 , 2023 EVN-NYC**

action. The AIPA, now the Armenian Intellectual Property Office (AIPO), has begun conducting full substantive examinations, a significant step forward. However, discussions continue with Armenia's Economy Ministry and AIPO leadership regarding unresolved issues and unimplemented suggestions. Despite these ongoing discussions, the implementation has been commendable, especially considering the challenges posed by the global pandemic and regional conflicts. The implementation of the new IP laws in Armenia is ongoing, with several critical steps already taken and several others remaining to be implemented:

- The Armenian Judiciary, under the Supreme Judicial Council, has continued to identify qualified judges to hear IP cases, although a specialized judicial training program for IP and patents is still in development by members of the Supreme Judicial Council in collaboration with the Armenian Bar Association.
- Discussions have been held about hiring technical specialists from universities to assist AIPO examiners, but this plan has not yet been implemented.
- Adjustments to the costs and fees associated with the patent application and prosecution process are under consideration to align AIPO's cost structure with international practices.
- Despite updates to the AIPO website, it still faces several drawbacks relating to signature submission and translation of information and forms.
- AIPO's engagement with industry and academia stakeholders remains limited, which is crucial for raising IP awareness and understanding.
- Universities and research institutions have begun to recognize the importance of IP but have not fully adopted a transparent and standardized approach to IP rights distribution related to research and work conducted by their members.

## **CURRENT ISSUES AND IMMEDIATE STEPS TO COMPLETE IMPLEMENTATIONS OR START EXECUTIONS**

The implementation of the new changes to the IP laws and regulations has laid a foundation for a robust IP regime in Armenia. However, several critical areas require immediate action to ensure the effectiveness of these laws:

### **Awareness Building and Cooperation**

- AIPO should intensify its partnership with industry and educational institutions to spread IP awareness. Initiatives like the recommended program of AIPO partnering with entities such as the Union of Advanced Technology Enterprises, TUMO Center for Creative Technologies, and COAF SMART Centers are pivotal.
- A Memorandum of Understanding with these organizations will establish bilateral cooperation and support broad dissemination of the importance of IP protection.

## **IP Protection & Corporate Law Improvement Report**

**October 29 , 2023 EVN-NYC**

### **Aipo Technological Issues and Infrastructure Improvements**

- Urgent upgrades to AIPO's technological infrastructure are needed to improve efficiency and international cooperation. This includes addressing inconsistencies in the AIPO website's multilingual content and integrating with WIPO's DAS system.
- Implementing a system for application prosecution tracking and case status checking will enhance transparency and reduce administrative burdens.

### **Determining the Qualification/Education Level and Sensitivity of the Judges to Nuanced IP Issues**

- There is a pressing need for mandatory training for judges on IP rights and expertise. The current lack of specialized knowledge can lead to inadequate protection of IP owner's rights and unpredictable procedures.

### **Solutions to Deficiencies in Customs Procedure**

- The report details deficiencies in customs procedures and proposes solutions to streamline the timing, existing rules, and laws. Adopting model jurisdiction frameworks and implementing proposed solutions will enhance the enforcement of IP rights at the borders.

Implementing these changes will not only improve the Armenia's IP-related online systems and presence together with the judicial and customs processes but also enhance its reputation and competitiveness in the global intellectual property landscape, ultimately attracting more applicants and fostering innovation in Armenia.

## **IP Protection & Corporate Law Improvement Report**

**October 29 , 2023 EVN-NYC**

### **ISSUE 1.0 AWARENESS BUILDING AND COOPERATION**

#### **OVERVIEW**

Awareness building and cooperation in the field of intellectual property has become one of the most vibrant topics of discourse both within and between the Republic of Armenia and the impacted Armenian Diaspora around the world, including especially the U.S. Armenian Bar Association and its Intellectual Property and Information Technology Law Committee. Recognizing the cultural implications and challenges involved, the common objective both within the country and beyond its borders is to first engrain and then broadly establish the concept of respect for the creativity of others in Armenia and in the region. Such an endeavor envisions outreach to the nation’s public at-large and to academia at even the most elementary levels. In order to achieve the ultimate goal, we need to coalesce around vital resources, which are available both within and beyond the country’s borders.

This cross-border engagement also serves a **vital secondary strategic objective**, which, it is proposed, *should be at the heart of every substantive decision made within the Republic*: that of reinforcing Armenia’s ties to the world and its recognition as a vibrant and credible player on the world stage.

#### ***Sub-Issue 1.1 - WORLD INTELLECTUAL PROPERTY ORGANIZATION (WIPO) ENGAGEMENT***

Established in 1967, WIPO’s mandate from its member states was to promote the protection of intellectual property throughout the world through cooperation among states and in cooperation with other international organizations.

WIPO welcomed Armenia as a member state in 1993. Among its many functions, WIPO generates an annual ranking of its member states based on a Global Innovation Index (“GII”) which tracks innovation capabilities for each country.

In the two years from 2018 to 2020, Armenia’s ranking improved from 68th to 61st among approximately 130 world economies, but fell to 69th place in 2021 due to the global pandemic and the impact of the unprovoked attacks on the Republic of Artsakh (Nagorno-Karabakh) and on the Republic of Armenia. Among its many strengths, Armenia ranks consistently high in “patents by origin,” “trademarks by origin” and “creativity outputs.” An area of concern is Armenia’s GII in the category of “expenditure on education as a percent of gross domestic product” which remains a consistently reported weakness worthy of paramount attention.

#### ***Recommendation A: WIPO’s Willingness to Establish an Education Center in Armenia***

- (i) In 2009, the WIPO Academy was established to provide assistance to member states in creating self-sustaining National Intellectual Property Training Institutions. The aim was to encourage member states to develop their own intellectual property training capacity focused on specific

## **IP Protection & Corporate Law Improvement Report**

**October 29 , 2023 EVN-NYC**

national goals and priorities. By 2020, the WIPO Academy had established ten Intellectual Property Training Institutions in Azerbaijan, Colombia, Costa Rica, the Dominican Republic, Egypt, El Salvador, Georgia, Peru and Tunisia. Twelve more projects are currently in process. According to the WIPO Academy, the project has, “greatly achieved the multiplier effect foreseen in its initial objectives.”

- (ii) The process of seeking the Academy’s cooperation in capacity building in Armenia through the establishment of an Intellectual Property Training Institution begins with a letter of intent from the member state to the Program and Budget Committee of WIPO and requires a clear commitment from the relevant government institution, including the designation of dedicated office space. A needs assessment is conducted by the WIPO Academy, and, if successfully processed, results in a commitment of financing by the Academy and the dispatch of their training personnel to Armenia. Becoming a beneficiary of the Academy’s program will bring infinite short- and long-term opportunities and resources to Armenia and will enable substantive outreach to a broad range of active users, from students to professionals throughout the country.
- (iii) Armenia has hosted guests from WIPO in Yerevan in the past. It is strongly recommended that the pursuit of this opportunity be continued in earnest, as a modest investment can be leveraged to yield significant and lasting domestic results as Armenia is contemporaneously promoted on the world stage.

### ***Sub-Issue 1.2 - POSSIBILITIES OF COOPERATION WITH U.S. EMBASSY IN YEREVAN***

In October 2021, the IP/IT Committee of the Armenian Bar Association made contact with the U.S. Embassy in Yerevan and supplied the following timeline starting from the Committee’s inception, including its recent activities and proposed next steps:

#### **Abbreviated Timeline of Activity**

Fall 2018

- A committee of the Armenian Bar Association was formed during the 2018 Annual Meeting of the Armenian Bar Association held at Columbia University in New York City to focus on startup and tech ecosystems in Armenia.
- The ad hoc IT/IP Committee, comprised of uniquely qualified practitioners and academics, was born out of what the Armenian Bar Association learned first-hand

## **IP Protection & Corporate Law Improvement Report**

**October 29 , 2023 EVN-NYC**

was the urgent need to address the myriad of legal and regulatory challenges facing startups and technology/innovation companies in Armenia.

2019

- Intense US/Armenia brainstorming began regarding multiple issues among stakeholders connected to the field, including academia/researchers, established and startup business leaders/owners, government representatives and local legal practitioners.
- Key challenge areas of focus in the IP, IT and Corporate legal and regulatory frameworks were targeted.
- Working groups of legal, business, technology, government, academia and educational institutions with professionals from the US, Armenia, Russia, Germany etc., were formed.
- Regular meetings of working groups were held to research, analyze and propose modifications to existing laws and regulations that identify solutions to the aforementioned challenges and/or bring Armenia's legislative and regulatory framework more in line with the practices of countries and jurisdictions with more progressive/developed IP, IT and Corporate law frameworks.
- A summary of findings and recommendations was presented at a Summit in Armenia in October 2019 to representatives of various ministries and members of the Armenian parliament with a package of recommendations for consideration and inclusion in new legislation and regulatory changes.

2020

- The submitted recommendations were reviewed, translated and submitted by the ministries in Armenia to the Armenian parliament.
- Despite the global pandemic and the unprovoked attack on the Republic of Artsakh (Nagorno-Karabakh) by Azerbaijan and Turkey, diligent efforts continued in Armenia in realizing the objectives of the Armenian Bar Association IT/IP Committee.

2021

- A key portion of the recommendations was successfully included in new legislation and regulatory changes in Armenia.
- Legislation came into force, inter alia:
  - o expanding the jurisdiction of the Armenian Intellectual Property Agency (AIPA) Board of Appeals,
  - o explicitly allowing software inventions to be protected by patent law and
  - o allowing the AIPA to begin conducting full substantive examinations of applications.
  - o providing approaches for protecting institutions and universities with guidance on the types of employment contracts and agreements to be signed about IP ownership between employer and employee, faculty and universities, student and universities.



## **IP Protection & Corporate Law Improvement Report**

**October 29 , 2023 EVN-NYC**

Subsequently, AIPA became the Armenian Intellectual Property Office (thereafter referred to as AIPO). Discussions are ongoing with Armenia's Economy Ministry and AIPO leadership, and practitioners in the US and Armenia regarding the remaining issues that have not yet been addressed or the suggestions which have not yet been implemented.

### Subsequent Steps as it relates to the U.S. Embassy in Yerevan

Armenia is not new to innovation. It has a recognized place in today's world of technology. In 2019, Armenia was host to the World Congress on Information Technology, which is one of the most prestigious tech events in the world, involving 83 countries and 90% of the tech industry. The event has been held annually for more than 40 years.

Having supplemented its already strong tech foundation with augmented IT/IP protections, the compelling need now in Armenia is to educate the local populace and the world on the availability of these laws, regulations and protections.

Members of the IP/IT Committee met with representatives of the U.S. Embassy during their visit to Yerevan scheduled for the week of June 20, 2022 in an effort to establish concrete ties with identified individuals within the U.S. Embassy and to chart a clear course of cooperation.

The U.S. Embassy in Yerevan was quick to acknowledge and embrace this initiative. Almost immediately, the Committee was directed to the Director of the Office of International Narcotics and Law Enforcement ("INL") at the Embassy whose mission it is to work with Armenian stakeholders to conduct a needs assessment to identify how to strengthen criminal codes and procedure and to train the judiciary and law enforcement on best practices. The Embassy made special note of what they observed as "genuine interest from our partners to make progress in this area."

A mutually productive working affiliation among the U.S. Embassy in Yerevan, Armenia and the Armenian Bar Association is of keen interest as we spread the enduring words of Nikita Khrushchev who said, "Under every rock in Armenia is a scientist."

*Recommendation A:* Continue collaboration with U.S. Embassy in Yerevan to find practical projects and collaboration and assistance initiatives in at least the following areas:

- (i) USAID funding projects in Armenia directed at IP education and funding;
  - a IP protection, technology transfer office creation and support in research institutions, universities, and laboratories.
- (ii) Collaboration with educational institutions to develop education

## **IP Protection & Corporate Law Improvement Report**

**October 29 , 2023 EVN-NYC**

### ***Sub-Issue 1.3 - POSSIBILITIES OF COOPERATION WITH THE USPTO***

The IP/IT Committee of the Armenian Bar Association made contact with the United States Patent and Trademark Office (“USPTO”) regarding the extensive initiatives undertaken in Armenia focused on capacity and awareness building and on improving IP enforcement. The USPTO representative immediately reached out to her colleagues at the U.S. Embassy in Yerevan and reaffirmed the committed support for our endeavors. The outreach extended to the Commercial Law Development Program of the U.S. government which recently met with representatives of the Armenian Intellectual Property Agency (“AIPA” now known as the Armenian Intellectual Property Office or “AIPO”) as well as the U.S. Department of Justice and the INL.

The USPTO has a variety of programs designed to assist developing nations in their development of intellectual property systems. Through the USPTO IP Attaché Program and the Global Intellectual Property Academy (“GIPA”), participants can join regional leaders in networking opportunities and e-learning modules on a variety of compelling subjects in the field of intellectual property. The USPTO currently has an IP Attaché based in Kyiv, Ukraine. E-learning modules through GIPA are conducted in five languages, including Russian.

*Recommendation A:* It is strongly recommended that these resources be fully utilized to meet the parallel objectives of enhancing Armenia’s intellectual property capacity building while at the same time enhancing its strategic alliance goals around the world.

### ***Sub-Issue 1.4 - LEGAL AND ECONOMIC REASONS FOR DEARTH OF PATENT APPLICATIONS AT THE ARMENIAN INTELLECTUAL PROPERTY OFFICE***

A consistent message was made clear to the IP/IT Committee throughout the working sessions by our counterparts in Armenia: the current state and size of the local marketplace does not seem to warrant complete processing of patent applications to their natural conclusion, namely issuance. While it is mandatory under the laws of Armenia to make an initial filing in Armenia, many companies continue processing their applications in foreign jurisdictions without reaching examiner level review in Armenia.

Philip Morris International was given as an example of an entity in Armenia initiating the patent application process and then abandoning same in favor of the USPTO. Awareness building is vital to ensure filers and potential filers in Armenia understand the many favorable substantive attributes obtaining a patent registration in Armenia can provide, including reducing the time and cost of obtaining a foreign patent.

It is estimated that there are currently 2,500 registered corporate entities in Armenia, many of whose products and services are exported outside Armenia. Nevertheless, it was only through

## **IP Protection & Corporate Law Improvement Report**

**October 29 , 2023 EVN-NYC**

the efforts of the IP/IT Committee's members that in the one-and-a-half years after the most recent "Law on Patents" of the Republic of Armenia coming into effect, exactly one patent application was filed in Armenia by a multinational corporation. Registration of any applicable intellectual property in Armenia first offers many advantages, including rapid processing time of patents (only six to eight months to complete patent registration in Armenia compared to several years in other jurisdictions) and a foundational basis upon which to build a bridge for registrations in foreign jurisdictions.

Based on the foregoing, it is the Committee's recommendation that:

*Recommendation A:* television, radio and related media promotional campaigns be created and broadcast broadly in Armenia to raise awareness, induce creativity, promote the legal and procedural advances made at AIPO in the protection of stakeholder creativity and encourage its active use;

*Recommendation B:* properly qualified and trained intellectual property examiners be engaged to establish a strong and sustained dialog with all applicants throughout the application process;

*Recommendation C:* dedicated outreach be performed by AIPO personnel with attorney and non-attorney representatives of each entity that has begun the patent filing process and then abandoned same in order for AIPO to obtain a clearer understanding of the motivation for such inaction;

*Recommendation D:* outreach be extended to the top 25 corporate entities in Armenia through meetings, congresses and social interaction to determine threshold needs and expectations in the patent filing process in Armenia, and

*Recommendation E:* such stakeholders be encouraged to submit to the complete patent process in Armenia, with careful scrutiny at each level of the submission process.

As with every other recommendation by the Committee, the focus of the foregoing serves a duality of purpose by elevating Armenia both on the domestic front and on the global stage.

### ***Sub-Issue 1.5 - GAPS IN AIPO STAFF KNOWLEDGE AND RESOURCES***

One of the key components of capacity building is ensuring the qualifications of examiners are on par with those of applicants in even the most complex matters of intellectual property.

AIPO currently has 14 trademark examiners who are not attorneys and who do not receive special training. If a trademark application for registration is refused or denied, the applicant

## **IP Protection & Corporate Law Improvement Report**

**October 29 , 2023 EVN-NYC**

can file an appeal with the Board of Appeals which is composed of members of AIPO as well as members of the Ministry of Economy experienced in trademark matters.

As a point of reference, it is noted that examining attorneys in the U.S. Trademark Office must be U.S. citizens, must possess a law degree and must have an active bar membership in any State. Trademark examiners in Western European countries are typically required to hold masters degrees in the law and/or pass various qualifying exams. Patent examiners are typically required to hold at least a bachelor's degree in various disciplines of science and usually have to complete a combination of graduate studies in their field of law and have relevant work experience.

When confronting an intellectual property matter requiring specialized training, education or experience beyond that available at AIPO, expert inputs from collaborative institutions of higher education can and should be sought.

Inherent in such a request is the requirement to preserve the confidentiality of any intellectual property file which can be achieved by having AIPO establish relationships on a contractor basis seeking an expert opinion without disclosing the invention or other underlying intellectual property.

Also inherent in such a program is the notion of sufficient fiscal autonomy for AIPO to allow AIPO to engage such experts as and when needed to deliver services of the highest caliber. Funding for such programs should be generated entirely by the user fee schedule within AIPO such that AIPO can ultimately serve as a profit center for the government. User fees can and should be structured based on the perceived ability of categories of claimants to fully fund the intellectual property review process.

As a point of reference, USPTO fees vary considerably based on the size and nature of the applicant. Patent applicants in the U.S. are divided into three categories: large entities (500 or more employees), small entities [universities, nonprofits, individual inventors and small businesses (no more than 500 employees)]; and micro-entities (the gross annual income of the inventor and applicant are less than three times the median household income). Filing and maintenance fees for a micro-entity are substantially lower than that of a large entity. The USPTO not only requires the payment of filing fees, but also requires payment of maintenance fees during the life of the patent. Failure to timely meet the payment obligations results in the expiration of the patent. It is estimated that the cost of obtaining and maintaining a U.S. patent over twenty years is approximately USD20,000.00 to USD60,000.00.

**POTENTIAL SOLUTIONS CONCERNING FILLING GAPS IN AIPO STAFF KNOWLEDGE THROUGH COLLABORATION WITH EXPERTS FROM INSTITUTIONS OF HIGHER EDUCATION**

**IP Protection & Corporate Law Improvement Report**  
**October 29 , 2023 EVN-NYC**

**Recommendation A: RECOMMENDED PROGRAM OF AIPO PARTNERING WITH INDUSTRY AND EDUCATIONAL INSTITUTIONS TO SPREAD IP AWARENESS**

- (i) AIPO's prowess as a government office derives from the strength of its direct and ancillary messaging as it raises the level of IP awareness throughout the country. Partnering with individuals, universities and educational institutions around Armenia can provide the dynamic engagement needed to support awareness building nationwide. Bilateral cooperation can be achieved without funding requirements. Through events and outreach conducted directly and by third parties serving as catalysts for cooperation, the depth of AIPO's foundational support can be substantially increased.
- (ii) The following organizations are worthy of immediate consideration as partners of AIPO in IP awareness building:
  - Union of Advanced Technology Enterprises [www.uate.org](http://www.uate.org)
  - TUMO Center for Creative Technologies [www.tumo.org](http://www.tumo.org)
  - COAF SMART Centers [www.coaf.org>smart-program>smart-center](http://www.coaf.org>smart-program>smart-center)
- (iii) Further information about each of the above groups and their varied programs is contained in

**Recommendation B:** It is strongly recommended that a Memorandum of Understanding be provided to each of these potential partners in order to establish bilateral cooperation and support for the broad dissemination of the imperative nature of intellectual property protection.

The robustness of a country's IP systems will help secure and promote innovation, creativity and economic growth.

The Armenian Bar Association remains committed to enhancing and fortifying one of Armenia's greatest resources - its human capital - through its action-oriented IP/IT Committee - until Armenia fulfills the duality of purpose in realizing its legacy of greatness and global dominance in this arena.

## **IP Protection & Corporate Law Improvement Report**

**October 29 , 2023 EVN-NYC**

### **ISSUE 2.0 AIPO TECHNOLOGICAL ISSUES AND INFRASTRUCTURE IMPROVEMENTS**

#### **OVERVIEW**

Intellectual property (IP) protection remains a cornerstone of modern innovation and continues to increase in importance with regard to its impact on economic development. The intellectual property office (IPO) of a country plays a pivotal role in administering and enforcing IP rights. An IPO that possesses an up-to-date technological infrastructure and online presence is better equipped to handle the growing complexities of modern IP practices, provide efficient services to stakeholders, and foster innovation and economic growth. A well-developed technological infrastructure and online presence of an IPO is vital to the efficient administration of IP rights. A country's IPO serves as the central authority for the registration, examination, and granting of patents, trademarks, and other IP rights. In today's digital age, where communication and transactions occur online, it becomes imperative that an IPO's infrastructure and online tools are optimized to handle an increasing volume of applications, filings, and inquiries in a timely and efficient manner. The level of technological development of an IPO's technical and online systems has a significant impact on entities interested in protecting their intellectual property through the IPO. A set of modern, efficient online systems and tools can expedite the application and registration process, provide accurate and timely information, and facilitate secure and efficient communications between the IPO and applicants. Conversely, an outdated infrastructure can cause significant delays in processing applications and inquiries, which can negatively impact the IP protection efforts of individuals, businesses, and organizations.

A modern, up-to-date set of infrastructure systems and tools of an IPO generally encompasses several key features. First, future-looking IPO's strive to have a robust and scalable database and information management system that can handle large volumes of applications, filings, and inquiries. The database should be secure and accessible to authorized users, and it should have advanced search capabilities that enable users to quickly locate and retrieve information related to IP rights. Second, it has become a standard for IPO's to have an integrated online platform that enables applicants to file applications, conduct transactions, and communicate with IPO officials securely and efficiently. The platform should have a user-friendly interface that is easy to navigate, and it should support multiple languages to facilitate global communications. Third, more and more IPOs are beginning to leverage modern technologies such as artificial intelligence, machine learning, and blockchain to enhance their operations. For instance, artificial intelligence and machine learning are being used to automate routine tasks, such as document processing and data analysis, which can reduce processing times and improve accuracy. Blockchains have begun to be used to enhance the security and transparency of IP transactions, reducing the risk of fraud and increasing trust.

Thus, the technological infrastructure, systems, and tools of an IPO have a significant impact on its operation and on the incentives of entities interested in protecting their intellectual property through the IPO. A modern, up-to-date infrastructure can expedite the application and registration process, provide accurate and timely information, and facilitate secure and efficient

## **IP Protection & Corporate Law Improvement Report**

**October 29 , 2023 EVN-NYC**

communications between the IPO and applicants. Accordingly, due to ever increasing numbers of start-ups and foreign companies becoming interested in protecting their intellectual property assets in Armenia, and in light of the anticipated increasing pace of innovation and technological development, it is imperative for Armenia's Intellectual Property Office (AIPO) to direct a renewed focus on its online presence and accessibility of technical tools and systems to enhance IP protection efforts, foster innovation and economic growth, and remain competitive in the global marketplace.

### **EXECUTIVE SUMMARY: LEGAL BENEFITS OF AIPO WEB & TECHNOLOGY UPGRADES**

Upgrading the technological infrastructure and online tools of Armenia's Intellectual Property Office (AIPO) would bring significant legal benefits, including improved efficiency, increased international cooperation, and enhanced access to information. This recommendation section provides an overview of these benefits and outlines the steps that AIPO can take to upgrade its technological infrastructure and online tools, including upgrades that address the issues and problems identified by AIPO leadership and staff as well as IP practitioners in private practice, members of academia, and business entities interested in protecting IP in Armenia.

One of the primary legal benefits of upgrading AIPO's technological infrastructure and online tools is improved efficiency in the patent and trademark application process. For example, integrating with WIPO's DAS system can reduce the administrative burden and time required for priority document exchange. Additionally, implementing a system for tracking the status of patent and trademark applications can provide greater transparency and accountability, thereby reducing delays and errors in the examination process. Another significant benefit of such upgrades is increased international cooperation. For example, improving the accessibility of AIPO's forms and website in Russian and English can help to attract foreign applicants and enhance collaboration with international patent and trademark offices. Moreover, upgrading the online application submission system for foreign entities can further facilitate application filings from abroad and streamline the application process. Enhanced access to information is also a significant legal benefit of upgrading AIPO's technological infrastructure and online tools. A modern interactive website can provide more comprehensive information about AIPO's services, procedures, and fees, thereby increasing transparency and accessibility. Furthermore, the availability of online forms and tracking systems can help to ensure that information is readily accessible and up-to-date, thereby increasing the accuracy and reliability of AIPO's patent and trademark records.

When considering updates to its online presence and technological infrastructure, AIPO should prioritize upgrades based on their potential impact on efficiency, international cooperation, and access to information. AIPO should also focus on upgrades that address the identified problems, such as integrating with WIPO's DAS system, creating an interactive website, and implementing systems for tracking the status of patent and trademark applications and for application submission by foreign entities. Fourth, AIPO should develop and implement a plan to regularly review and update its technological infrastructure and online tools to ensure continued efficiency, international cooperation, and access to information. A more detailed discussion of each of these recommendations is provided below.

## **IP Protection & Corporate Law Improvement Report**

**October 29 , 2023 EVN-NYC**

### ***Sub-Issue 2.1 - ARMENIA'S INTELLECTUAL PROPERTY OFFICE'S (AIPO'S) INTEGRATION WITH THE DIGITAL ACCESS SERVICE (DAS) SYSTEM***

The World Intellectual Property Organization's (WIPO's) Digital Access Service (DAS) is an electronic system allowing priority documents and similar documents to be securely exchanged between participating intellectual property (IP) offices. The system greatly facilitates and speeds up the filing and tracking processes related to IP documentations across jurisdictions which become especially important for international and foreign entities desiring to protect their IP in Armenia. It does so by enabling applicants and offices to meet the requirements of the Paris Convention for certification in an electronic environment. The WIPO DAS system simplifies the priority document exchange process and reduces the administrative burden and costs associated with obtaining priority documents from multiple offices. Currently, Armenia's Intellectual Property Office (AIPO) has not joined the WIPO DAS system. As explained in more detail below, the DAS system is used by all of the major national and regional IP offices (e.g., USPTO, EPO, JPO) for the simplified exchange, transfer, receipt, and verification of official certified documents. It has been standard practice to use the DAS system for many years and most recently more and more jurisdictions from the former USSR have begun utilizing the DAS system, including the Baltic countries and Georgia (Sakpatenti), to speed up and facilitate IP registrations locally and abroad.

Not being part of the WIPO DAS system can have significant drawbacks for AIPO. These drawbacks include increased administrative burdens, longer processing times for patent applications, reduced access to priority documents, and limited opportunities for international cooperation.

One of the major drawbacks of not being part of the WIPO DAS system is the increased administrative burden on AIPO. Without the system, AIPO has to manually process and exchange priority documents with multiple patent offices, which can be time-consuming and costly. This manual process can also lead to errors and inconsistencies in the exchange of documents, which can further delay the patent application process.

Another significant drawback is longer processing times for patent applications. Without the WIPO DAS system, AIPO has to wait for priority documents or certified copies of them to physically be obtained from other patent offices, which can take longer to arrive and may require additional follow-up efforts. This delay in obtaining priority documents can slow down the examination process and may result in missed deadlines or lost opportunities for patent protection.

In addition, not being part of the WIPO DAS system limits AIPO's access to priority documents from other patent offices. This can result in a reduced ability to assess the novelty and inventiveness of a patent application, which can lead to less effective patent examination and a reduced quality of granted patents.

Finally, not being part of the WIPO DAS system limits AIPO's opportunities for international cooperation. The system provides a platform for patent offices to exchange information and best practices, which can help AIPO to improve its patent examination quality and efficiency. Without



## **IP Protection & Corporate Law Improvement Report**

**October 29 , 2023 EVN-NYC**

this platform, AIPO may miss out on important international developments and advancements in the field of intellectual property.

In conclusion, not being part of the WIPO DAS system can have significant drawbacks for AIPO, including increased administrative burdens, longer processing times for patent applications, reduced access to priority documents, and limited opportunities for international cooperation. To avoid these drawbacks, AIPO should consider joining the WIPO DAS system as soon as possible.

The potential benefits of joining the WIPO DAS system for AIPO, as well as the recommended steps to be taken to join the system are the following:

The benefits of joining the WIPO DAS system for AIPO are numerous. Firstly, the system provides a streamlined process for the exchange of priority documents, which reduces the workload and administrative costs of both the receiving and the sending offices. Secondly, AIPO can take advantage of the system's 24/7 availability to submit or retrieve priority documents at any time, regardless of the office's working hours. This can significantly reduce the time it takes to exchange priority documents, which can in turn speed up the patent application process.

Furthermore, joining the WIPO DAS system can help AIPO to enhance its international cooperation and improve its patent examination quality. This is because the system provides access to priority documents from multiple patent offices, which can help AIPO examiners to better assess the novelty and inventiveness of a patent application. Moreover, being part of the WIPO DAS system would demonstrate AIPO's commitment to international cooperation and its willingness to adopt the latest technologies and best practices in the field of intellectual property.

To join the WIPO DAS system, it is recommended that AIPO takes the following steps:

*Recommendation A:* First, it is recommended that AIPO assess whether it meets the system's technical requirements, such as having a secure internet connection and the ability to exchange priority documents in PDF format.

*Recommendation B:* Second, it is recommended that AIPO sign the WIPO DAS agreement, which sets out the terms and conditions of using the system.

*Recommendation C:* Third, it is recommended that AIPO integrates its IT systems with the WIPO DAS system, which may involve some technical adjustments and testing.

*Recommendation D:* Finally, it is recommended that AIPO designate a WIPO DAS access point, which is responsible for receiving and transmitting priority documents to and from the WIPO DAS system.

Accordingly, joining the WIPO DAS system would bring significant benefits to AIPO in terms of reducing administrative costs, speeding up the patent application process, enhancing international

## **IP Protection & Corporate Law Improvement Report**

**October 29 , 2023 EVN-NYC**

cooperation, and improving patent examination quality. The process of joining the system involves meeting the technical requirements, signing the WIPO DAS agreement, integrating IT systems, and designating a WIPO DAS access point. Therefore, it is our recommendation that AIPO consider joining the WIPO DAS system as a priority to improve its patent examination process and demonstrate its commitment to international cooperation.

### ***Sub-Issue 2.2 - UPDATE OF THE AIPO WEBSITE***

In the course of our research and analysis, we have reviewed the most recent updates of AIPO's website and online systems. We would like to draw attention to the numerous issues surrounding the Armenia's Intellectual Property Office (AIPO) website and online systems that have become apparent over the course of our review and that may cause problems for AIPO and potential applicants for IP protection. These issues not only pose significant challenges for AIPO but also for potential applicants for IP protection, particularly foreign applicants.

One of the primary concerns is the inconsistency of content between the Armenian, English, and Russian versions of the AIPO website. This inconsistency can lead to misunderstandings and misinterpretations of information, ultimately causing potential applicants to face difficulties in comprehending the application process and requirements. For foreign applicants, who may have limited knowledge of Armenian, the language barrier exacerbates these issues and could deter them from seeking IP protection in Armenia.

Moreover, the application forms are available solely in Armenian, even though the law permits initial submissions to be made in a foreign language with an Armenian translation provided at a later stage. This limitation could hinder foreign applicants from initiating the application process smoothly and may result in applicants seeking IP protection elsewhere, negatively impacting the AIPO's reputation and potential revenue.

Additionally, the AIPO website's application forms are not online-fillable, which increases the administrative burden on applicants and AIPO staff. This outdated system is inefficient compared to the streamlined processes of developed countries' IP offices, where applicants can complete and submit forms digitally, saving time and resources.

Another pressing issue is the antiquated and cumbersome identity verification hardware device required for accessing certain portions of the site. This outdated system not only inconveniences users but also hampers the AIPO's ability to provide efficient and accessible services to its clientele.

In contrast, developed countries' IP offices have implemented modern, user-friendly online systems that facilitate efficient and transparent application processes. For example, the United States Patent and Trademark Office (USPTO) and the European Patent Office (EPO) both offer comprehensive, multilingual websites with easily accessible and online-fillable forms.

## **IP Protection & Corporate Law Improvement Report**

**October 29 , 2023 EVN-NYC**

There are several examples of Intellectual Property Office (IPO) websites and systems from other countries that have successfully addressed and resolved the issues faced by the Armenia's Intellectual Property Office (AIPO). These IPOs have implemented various strategies and adopted best practices to ensure their systems are user-friendly, efficient, and accessible to both domestic and international applicants. In this persuasive analysis, I will outline the approaches taken by the United States Patent and Trademark Office (USPTO), the European Patent Office (EPO), and the Japan Patent Office (JPO) to overcome these challenges.

1. United States Patent and Trademark Office (USPTO): The USPTO's website (<https://www.uspto.gov/>) provides comprehensive and consistent content in English, catering to a global audience. The website features an intuitive layout and user-friendly design, making it easy for users to access information and resources. Additionally, the USPTO offers online-fillable forms and accepts electronic submissions, which streamlines the application process and reduces administrative burdens. The USPTO also utilizes modern, secure authentication methods, ensuring the privacy and security of user information.

2. European Patent Office (EPO): The EPO website (<https://www.epo.org/>) offers information in multiple languages, including English, French, and German. This multilingual approach ensures that applicants from various linguistic backgrounds can access and understand the necessary information to navigate the application process. The EPO's online services, such as Espacenet (<https://worldwide.espacenet.com/>), enable users to perform patent searches and access patent documentation in different languages. The EPO's online filing system (<https://www.epo.org/applying/online-services/online-filing.html>) allows applicants to submit forms electronically and employs secure, user-friendly authentication methods.

3. Japan Patent Office (JPO): The JPO website (<https://www.jpo.go.jp/>) offers content in both Japanese and English, catering to a diverse range of users. The website is well-organized and easy to navigate, allowing users to find relevant information quickly. The JPO's Industrial Property Digital Library (IPDL) (<https://www.jpo.go.jp/e/resources/ipdl.html>) provides patent information and documentation in both languages, ensuring accessibility for domestic and international applicants. The JPO also features an electronic filing system, which streamlines the application process and improves efficiency.

These examples demonstrate the importance of addressing language barriers, providing consistent content, offering online-fillable forms, and implementing user-friendly, secure authentication methods to create efficient, accessible, and user-friendly IPO websites and systems. By adopting similar strategies and best practices, the AIPO can enhance its online presence, attract more applicants, and foster innovation and intellectual property protection in Armenia.

## **IP Protection & Corporate Law Improvement Report**

**October 29 , 2023 EVN-NYC**

To bring the AIPO's online systems and presence in line with those of developed countries' IP offices, we recommend making the following changes:

*Recommendation A:* Ensuring content consistency across all language versions of the AIPO website. This measure will prevent misunderstandings and provide clear guidance for all applicants, regardless of their language proficiency.

*Recommendation B:* Offering application forms in multiple languages, including English and Russian, to cater to a broader range of applicants and facilitate a smoother application process for foreign clients.

*Recommendation C:* Implementing online-fillable application forms to streamline the process and reduce administrative burdens for both applicants and AIPO staff.

*Recommendation D:* Replacing the outdated identity verification hardware device with a more modern, user-friendly solution, such as registration followed by subsequent two-factor authentication via email or mobile phone.

*Recommendation E:* Continuously updating and improving the AIPO website on a regular basis to ensure it remains user-friendly and accessible, reflecting best practices and technological advancements.

Implementing these changes will not only improve the AIPO's online systems and presence but also enhance its reputation and competitiveness in the global intellectual property landscape, ultimately attracting more applicants and fostering innovation in Armenia.

### ***Sub-Issue 2.3 - SYSTEM FOR APPLICATION PROSECUTION TRACKING AND CASE STATUS CHECKING AT AIPO***

We have observed that the lack of a system for checking and tracking an application's status throughout the course of patent prosecution or trademark prosecution at AIPO can lead to significant inefficiencies and challenges for both AIPO and potential applicants, particularly for foreign applicants who may be unfamiliar with the local processes and language.

The absence of an online tracking system can result in increased administrative work for AIPO staff, as they need to manually respond to inquiries about application statuses. This increased workload can slow down the overall processing times for applications, potentially harming the competitiveness of Armenia's innovation ecosystem. Moreover, applicants may face uncertainty and frustration due to the lack of transparency and communication during the prosecution process, which can deter them from seeking intellectual property protection in the country.

## **IP Protection & Corporate Law Improvement Report**

**October 29 , 2023 EVN-NYC**

In contrast, many national and regional IP offices often have online systems that allow applicants to check the status of their applications and track their progress throughout the prosecution process. For example:

1. United States Patent and Trademark Office (USPTO):
  - a. The USPTO's Patent Application Information Retrieval (PAIR) system (<https://www.uspto.gov/patents-application-process/checking-application-status/check-filing-status-your-patent>) allows applicants to monitor the status of their patent applications and access documents related to the prosecution process. This transparency helps applicants stay informed and manage their expectations regarding the timeline for receiving a decision on their applications.
  - b. The USPTO's Patent Center (<https://patentcenter.uspto.gov/>) provides web-based access to public and pending patent information in the internal Patent Application Locating and Monitoring (PALM) system. This simplifies application tracking and follow-up on documents through the patent approval process.
2. European Patent Office (EPO): The EPO's European Patent Register (<https://www.epo.org/searching-for-patents/helpful-resources/register.html>) provides information on the status of European patent applications and grants, including details about the prosecution process. The Register helps applicants stay updated on the progress of their applications, reducing the need for direct communication with EPO staff.
3. Japan Patent Office (JPO): The JPO's Industrial Property Digital Library (IPDL) (<https://www.jpo.go.jp/e/resources/ipdl.html>) allows users to search for and access information on patent applications, including their status and related documents. This transparency promotes efficiency and streamlines the application process for both the JPO and applicants.

Furthermore, small post-soviet countries such as Estonia and Georgia have also successfully implemented online systems for their IP offices, addressing the drawbacks faced by AIPO. Estonia's Patent Office, for example, offers an e-service platform that allows users to file applications, monitor their progress, and access relevant information. Similarly, Georgia's National Intellectual Property Center, Sakpatenti, provides an online portal for electronic services, including application tracking and access to IP databases.

To bring AIPO's online systems to the standard of internationally favored IP offices, we recommend the following changes:

*Recommendation A:* Developing and implementing an online application tracking system that allows applicants to monitor the status of their applications and access relevant documents throughout the prosecution process. This system should be accessible to both

## **IP Protection & Corporate Law Improvement Report**

**October 29 , 2023 EVN-NYC**

domestic and foreign applicants and should be available in multiple languages to ensure ease of use.

*Recommendation B:* Integrating this tracking system with AIPO's existing online infrastructure to provide a seamless user experience and reduce the need for manual intervention by AIPO staff

*Recommendation C:* Providing staff training and system maintenance to ensure that the online tracking system remains up-to-date, secure, and efficient

By implementing these changes, AIPO can increase the transparency and efficiency of its intellectual property application processes, thereby facilitating an increase in the number of applications for patent and trademark protection and fostering technological development and business investment in Armenia.

### ***Sub-Issue 2.4 - SYSTEM FOR IDENTITY VERIFICATION AND DIGITAL SIGNATURE ACCEPTANCE FOR ELECTRONIC APPLICATION SUBMISSIONS***

In the course of our review and analysis we determined that AIPO's electronic application submission system has the following issues: (i) It requires the use of an antiquated card reader device and an Armenian identification card to verify a user's identity and to submit electronically signed documents; (ii) without the use of this device or without the identification card access to the application submission portal on the website is prohibited; (iii) many people do not have access to the card reader device; (iv) many potential applicants, specifically foreign applicants, may not have an Armenian identification card. The Economy Ministry's leadership has suggested the use of the E-request portal for communicating and submitting applications to AIPO instead of using the AIPO website as a temporary workaround. This was suggested as a temporary measure while efforts are made to initiate analyses and plans to overhaul and digitize the government's systems in their entirety. The Economy Ministry relayed to this committee in March 2023, that the Deputy Prime Minister's office in collaboration with the Central Bank has initiated a review of the potential upgrade of the government systems based on consulting company recommendations. However, at the time of this writing it remains unclear whether AIPO and its systems would even be included in the recommendations. Notably, the suggested e-request system allows a submission of a letter/application along with attached PDFs. While an ink or electronic signature can be applied to the PDF before uploading, it remains unclear what legal effect each one of the signature/no-signature options will have for the purposes of confirming a patent/trademark application filing with AIPO or verifying an applicant's identity. Furthermore, there is no way, in

## **IP Protection & Corporate Law Improvement Report**

**October 29 , 2023 EVN-NYC**

the e-request system, of associating the submitted application with the corresponding government application/processing fees. Even if there was a way to associate it, the e-payment system cannot be used by foreign entities because it requires the input of an Armenian Tax-ID which the entities may not have.

Accordingly, the aforementioned critical issues with the Armenia Intellectual Property Office (AIPO) electronic application submission system can cause significant problems for AIPO and potential applicants, particularly foreign applicants seeking IP protection in Armenia. The current system's reliance on antiquated technology, restrictive access requirements, and unclear legal effects of signature options, coupled with the lack of payment processing options for foreign entities, hinder the efficient and effective functioning of AIPO's online infrastructure.

These issues can result in several challenges for AIPO and potential applicants:

1. **Limited accessibility:** The requirement for an Armenian identification card and a card reader device to access the application submission portal can exclude potential foreign applicants and create barriers for local applicants who do not have the required hardware.
2. **Uncertainty regarding legal effects:** The lack of clarity surrounding the legal implications of various signature options on submitted documents can create confusion and uncertainty for applicants, potentially leading to delays and additional expenses to ensure compliance with AIPO's requirements.
3. **Payment processing difficulties:** The inability of foreign entities to use the e-payment system due to the Armenian Tax-ID requirement can deter foreign applicants from seeking IP protection in Armenia, ultimately limiting the country's international competitiveness in the innovation and IP sectors.

Many national and regional IP offices often have more streamlined and user-friendly online systems that address these issues. For example:

1. **United States Patent and Trademark Office (USPTO):** The USPTO's online systems, such as the Electronic Filing System (EFS-Web) and the Trademark Electronic Application System (TEAS), allow applicants to submit applications and documents electronically without the need for specialized hardware or identification cards. The USPTO also accepts digital signatures, reducing uncertainty surrounding the legal effects of signatures on submitted documents.
2. **European Patent Office (EPO):** The EPO's Online Filing system allows applicants to submit patent applications electronically, regardless of their nationality or location. The EPO also accepts digital signatures, ensuring legal compliance and consistency across all submitted documents. Additionally, the EPO provides an online fee payment system that accommodates various payment methods, including credit cards, making it accessible to foreign entities.

## **IP Protection & Corporate Law Improvement Report**

**October 29 , 2023 EVN-NYC**

To better understand these issues, we also examined other small post-Soviet countries' IPO systems that have successfully addressed similar challenges. Countries like Estonia and Georgia have made significant progress in modernizing their IP office online systems, providing valuable insights into potential solutions for AIPO.

1. Estonia: The Estonian Patent Office has successfully implemented a robust and user-friendly online portal, offering services such as electronic filing, payment, and application tracking. They have replaced antiquated authentication methods with secure and globally compatible systems, making it accessible to both domestic and foreign applicants. Estonia's success can be attributed to the prioritization of digital infrastructure development and strong support from governmental institutions.
2. Georgia: The National Intellectual Property Center of Georgia (Sakpatenti) has adopted a comprehensive online system that allows for easy application submission, payment, and tracking. They have streamlined authentication processes to accommodate both Georgian and foreign applicants, ensuring a smooth user experience for all. The online system supports multiple languages and provides clear guidelines on legal requirements, which has helped improve accessibility and transparency in Georgia's IP system.

Drawing on these examples, we recommend the following improvements for AIPO's electronic application submission system:

*Recommendation A:* Implementing a secure authentication system: Replace the current card reader and identification card requirements with a more robust and universally compatible authentication method. Implement secure username and password combinations or two-factor authentication, which can be easily accessed by both domestic and foreign applicants

*Recommendation B:* Streamlining electronic document submission: Facilitate easy submission of electronic documents, including applications and supporting documents, without the need for specialized hardware. Integrate AIPO's system with common document formats, such as PDF, and allow the use of widely accepted digital signatures to ensure legal compliance and consistency across all submissions

*Recommendation C:* Clarifying legal effects of signature options if the e-request portal work-around option is temporarily used: Develop clear guidelines and regulations concerning the legal effects of various signature options on documents submitted via the e-request portal. Provide information on AIPO's website or e-request portal and within the application process to ensure applicants understand the requirements and implications of their chosen signature method



## **IP Protection & Corporate Law Improvement Report**

**October 29 , 2023 EVN-NYC**

*Recommendation D:* Switching to an inclusive online payment processing system: Implement a versatile online payment processing system that accommodates various payment methods, including credit cards, international wire transfers, and other popular payment options. Ensure that foreign entities can pay application and processing fees without requiring an Armenian Tax-ID

By implementing these specific changes, AIPO can significantly improve its electronic application submission system, making it more accessible, efficient, and attractive to both domestic and foreign applicants seeking intellectual property protection in Armenia. This modernization will enhance Armenia's international competitiveness in the innovation and IP sectors and demonstrate the country's commitment to supporting inventors and creators globally.

### **CONCLUSION**

The strength and efficiency of a nation's intellectual property systems play a vital role in fostering innovation, promoting creativity, and catalyzing economic expansion. Recognizing this, the Armenian Bar Association's is unwavering in its dedication to cultivating and empowering one of Armenia's most valuable assets - an inimitable asset embodied by the creativity and resourcefulness of its people. This commitment is exemplified by the proactive endeavors of the IP/IT Committee, which tirelessly works towards the realization of Armenia's dual objectives: to honor its rich legacy of excellence and to establish itself as a preeminent global player in the intellectual property landscape. By addressing and improving the technological infrastructure and online systems of AIPO, Armenia is poised to unlock its immense potential, securing a prosperous future for generations to come.

**IP Protection & Corporate Law Improvement Report**  
**October 29 , 2023 EVN-NYC**

**ISSUE 3.0 DETERMINING THE QUALIFICATION/EDUCATION LEVEL AND**  
**SENSITIVITY OF THE JUDGES TO NUANCED IP ISSUES**

**OVERVIEW**

Currently, in terms of education, most of the universities in Armenia offer a general elective course on intellectual property (“IP”) to lawyers. There is no mandatory training for judges to understand IP rights and expertise. There are no requirements as for who can hear the case that pertains to IP rights.

As for the assignment of the cases to the specific judges, no official system exists. The judge's experiences may be implicitly considered when the cases are assigned to them but there is no requirement to do so. This causes the cases to be assigned to untrained judges who encountered no education in IP law or IP rights in their career. Such lack of knowledge causes judgments that are not protective enough of IP owner’s rights or the procedures that are unpredictable and inefficient with regards to the cost, time spent and, most importantly, to the protection of IP rights.

In the past, up until 2021, the cases were assigned through an automated computerized system. This system is no longer used in Armenia, and all the cases are assigned manually. This manual assignment process is done by the regional or territorial judges.

For the comparison, there is a global trend in establishing IP courts.<sup>1</sup> Also, in the US, there was the Patent Pilot Program that was created by Congress and aimed towards increasing the expertise of judges who hear patent cases.<sup>2</sup> Notably, having judges who specialize in the areas that require such expertise as IP law does lead to consistency and predictability.<sup>3</sup>

Another challenge in Armenia will be to get the judges not only educated in IP rights but also to be more sensitive to IP rights as it seems that IP rights are not considered as something that should be heavily regulated or protected in Armenia.

**EXISTING RULES & LAWS AND BASIS OF ISSUE**

There are no current existing drafts of Armenian legislation that would address above referenced issues. However, it also may be the case that the legislative solution is not the only option that the

---

<sup>1</sup> Jacques de Werra, A closer look at specialized intellectual property courts Wipo.int (2019), [https://www.wipo.int/wipo\\_magazine/en/2019/03/article\\_0005.html](https://www.wipo.int/wipo_magazine/en/2019/03/article_0005.html) (last visited May 15, 2022).

<sup>2</sup> Matthew Bultman, Pilot Program’s End Likely to Affect Where Patent Owners Sue News.bloomberglaw.com (2021), <https://news.bloomberglaw.com/ip-law/pilot-programs-end-likely-to-affect-where-patent-owners-sue> (last visited May 15, 2022).

<sup>3</sup> Eli Mazour, Clause 8 Podcast: Professor Tim Hsieh Explains the Benefits of Judge Shopping IPWatchdog.com | Patents & Patent Law (2022), <https://www.ipwatchdog.com/2022/04/21/clause-8-professor-tim-hsieh-benefits-judge-shopping/id=148573/> (last visited May 15, 2022).

## **IP Protection & Corporate Law Improvement Report**

**October 29 , 2023 EVN-NYC**

Armenian judicial system has. For example, putting an emphasis on early education and on the IP classes during legal studies could tremendously help in raising awareness of the issue itself.

Legal education should emphasize the importance of IP rights and the thinking about them should be popularized (or normalized) by organizing seminars, classes or events for start-ups and other entrepreneurs where they could find the valuable information about the rights that they have in what they developed or what they own.

### **PROPOSED SOLUTIONS**

#### **Recommendation A: Organizing educational seminars and lectures for current judges to attend**

- (i) To raise the general awareness about the IP rights and their enforcement in Armenia, there should be educational events that could lead to the improvement of the current state of IP rights protection in Armenia.

#### **Recommendation B: Providing access to an education in IP rights and enforcement early on**

- (i) There should be accessible courses and seminars for law students to attend that focus primarily on IP rights and law. Such courses are lately very popular in the US, making IP one of the frequent choices of law students.
- (ii) This, logically, causes an increase in general knowledge and in IP awareness.

#### **Recommendation C: Raising awareness on IP rights and enforcements issues in Armenian public**

- (i) There should be various events and seminars for the public. Furthermore, there should be seminars, classes or events specifically organized for start-ups and other entrepreneurs where they could find valuable information about the rights that they have in what they developed or what they own.
- (ii) This could provide entrepreneurs with the confidence to create and develop new products in Armenia, which will ultimately help Armenia to grow economically.

#### **Recommendation D: Setting a program that would focus on assigning cases to specialized judges**

- (i) Such a program would have to include access to the required education. Judges would be able to hire clerks who specialize in IP law.<sup>4</sup> There would have to be at least an annual report, summarizing the differences between the courts that participate in the program and those who do not.

---

<sup>4</sup> Jacques de Werra, A closer look at specialized intellectual property courts Wipo.int (2019), [https://www.wipo.int/wipo\\_magazine/en/2019/03/article\\_0005.html](https://www.wipo.int/wipo_magazine/en/2019/03/article_0005.html) (last visited May 15, 2022).

## **IP Protection & Corporate Law Improvement Report**

**October 29 , 2023 EVN-NYC**

### **ISSUE 4.0 DEFICIENCIES IN CUSTOMS PROCEDURE**

#### **OVERVIEW**

One of the primary deficiencies in Armenia's customs procedures is timing. The timeframe to respond to a seizure notice is only three days and only 10 business days to file a complaint with the court (with a 10 business day [extended time period] - for acceptance/review of the complaint and for getting a court decision on preliminary measures, which will be a basis for further suspension in customs bodies). Not only is this insufficient, but it heavily contributes to the overall oversight of customs control and seizures and further burdens the already overloaded court dockets. Therefore modified time frames and deadlines to be applied for these procedures are proposed in the following recommendations.

#### ***Sub-Issue 4.1 - EXISTING RULES & LAWS***

Historically, Armenia adhered to the international exhaustion approach regarding the importation of infringing products. More recently, however, Armenia switched to the regional approach, which allows the products to freely circulate unless the IP holder blocks the entrance into the country. In short, previously the brand owner could only block counterfeit products, whereas now the brand owner can block *genuine* products from entering Armenia from other countries.

Looking at the big picture, the key issue with customs in Armenia is the implementation and enforcement. This is reflected by, among other things, timing. Specifically, one of the problems with customs is that they will suspend import for only 10 days, which is technically designed for the brand owner to go to court and file the complaint, i.e., to prohibit the import. But in practice, this timeframe is insufficient to say the very least, especially considering that the courts are backlogged.

In sum, when infringing products are imported, the following typically occurs:

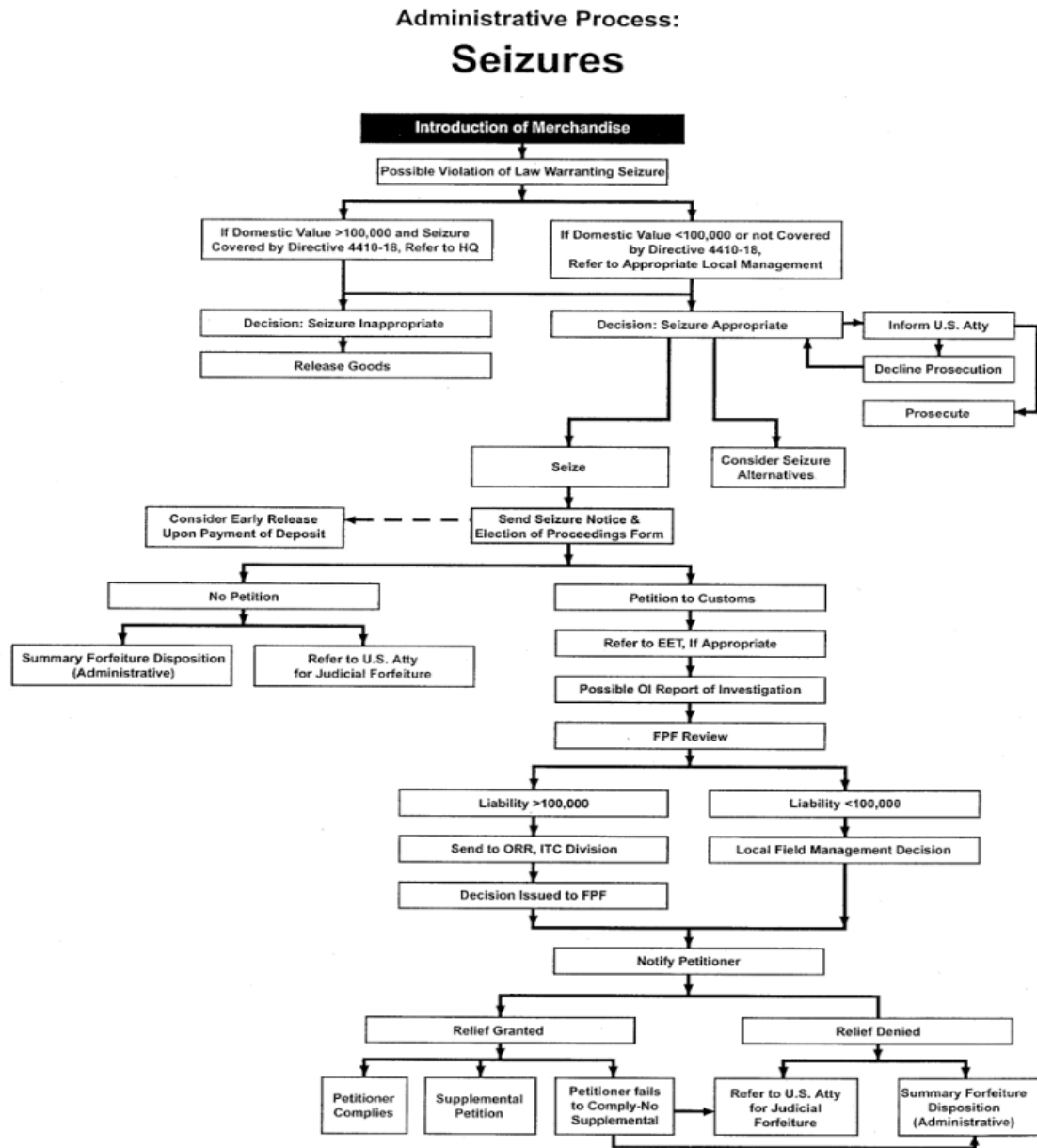
1. The brand owner registers the trademark with customs for a term of up to 2 years.
2. Once customs officials flag an infringing shipment, they notify the brand owner.
3. The brand owner has three days to respond. If the brand owner fails to respond, customs officials will simply release the goods. This is clearly problematic because the goods are likely infringing and violate IP rights.
4. If the brand owner responds within the three days, however, he or she has only 10 more days to file the complaint, obtain a judgment, and bring the court's decision to the customs authorities.

Undeniably, this framework is deficient.

**IP Protection & Corporate Law Improvement Report**  
**October 29 , 2023 EVN-NYC**

**Sub-Issue 4.2 - MODEL JURISDICTION & FRAMEWORKS**

The United States customs laws and procedures, while imperfect, represent a strong model.



The U.S. Customs and Border Protection (“CBP”) defines two types of seizures. The first is where the law provides for “forfeiture” of property, which means that the seized property will ultimately become government property. The second is where the property is seized to secure payment of a monetary penalty. If not paid, the property will be sold to pay the penalty, with the balance subject to the owner’s claims.

## **IP Protection & Corporate Law Improvement Report**

**October 29 , 2023 EVN-NYC**

With respect to timing, the United States allows 30 days for the brand owner to respond to the seizure. More specifically, the following occurs: Within three days after seizure (and upon supervisor approval of the seizure), the case is referred to the Fines, Penalties and Forfeitures office. They will send out the letter to the violator and all other interested parties. Typically, the violator has 30 days to respond (with extensions given freely). This response constitutes a petition to CBP to release the seized property. Importantly, the owner of the mark, also has 30 days to respond and to file a petition. Under the Code of Federal Regulations, the brand owner also has 30 days to provide “written consent to the importer allowing the importation of the seized merchandise in its condition as imported or its exportation, entry after obliteration of the mark, or other appropriate disposition.” 19 CFR 133.21(g). In short, the brand owner has ample time to act.

### ***Sub-Issue 4.3 - PROPOSED SOLUTION(S)***

*Recommendation A:* With respect to the timing issue, the overall total 10 day time-period should be extended to at least 30 days and potentially even further. The current proposal is to keep these initial 10 business day as a time-period solely for the initial stage of the submission of the right-holder’s claim, and allow the remaining 20 business days to serve as a sufficient period of time for a court to render a decision regarding the submission. This will provide the possibility to obtain a court decision even in case of delays in judicial procedures.

- (i) This additional time should allow the brand owner to thoroughly assess the seizure, find legal representation, prepare and file the complaint, obtain a decision on preliminary measures (suspension until the end of the court case), receive a final judgment, and submit it to the proper authorities. Ten days is nowhere near enough time to do that.
- (ii) As part of this proposed solution, the courts should implement a mechanism that would allow for a quicker resolution of such claims. This could mirror an *ex parte* application, where the urgency of the limited timeframe would allow a party to quickly file a complaint and obtain a decision. In the US, for example, such applications are used when there is an emergency such that there will be irreparable harm or immediate danger if the order is not granted. Not only would this mechanism allow for quicker resolutions and thus a much stronger enforcement of IP rights in general, but also help relieve the court’s overburdened dockets.
- (iii) In this case we propose to use already existing draft (<https://www.e-draft.am/projects/2145>), which can be improved and can be adopted in the same package with the required changes for the customs suspension extension.
  - a Thus, if the first 10 business days is given to the right holder to perform required actions for protection of his rights and it is reasonable time for submission of the court claim, the second 10 business days are depending only to the judicial system - when court will provide the decision on acceptance of the claim to the proceedings and applying

## **IP Protection & Corporate Law Improvement Report**

**October 29 , 2023 EVN-NYC**

preliminary measures, which in practice usually is lasting more (even if by law it should be done within up to 7 days upon presenting the claim).

- b The proposed solution would (1) extend this timeframe to a minimum of overall 30 business days, with possibility of extension of initial 10 business days with another 20 business days and (2) implement an special procedural mechanism for such type of court claims, which would more easily facilitate the resolution of such complaints, in particular base can be already published draft (<https://www.e-draft.am/projects/2145>), by which court is accepting claim and applying preliminary measures within 3 days after submission of the claim (instead of 7) and court shall make final decision within 3 months (instead of indefinite time)

**ISSUE 5.0 ESTABLISHING EFFECTIVE REMEDIES & SANCTIONS**

**OVERVIEW**

The current state of legislation and regulations pertaining to copyright enforcement in Armenia disincentivize Armenian copyright owners from pursuing registrations and enforcement of infringement of copyrights and hinder the development of an effective and conducive professional environment for attorneys specialized in copyright law. Recent reports of instances of copyright infringement have highlighted the insufficiency of current requirements to initiate copyright infringement actions and the potential damages that may be sought and awarded as a result of such actions. They are inadequate to justify the investment of professional time and effort to effectively enforce the rights that are alleged as being infringed. This state of affairs acts effectively as a barrier to the increased participation of domestic and international stakeholders in the Armenian marketplace due to concerns relating to the enforcement of valuable intellectual property assets.

Accordingly, the following recommendations address the institution of copyright registration procedures at AIPO and the provision of statutory damages and administrative sanctions for IP violations in addition to or as an alternative to actual damages.

Armenian laws in the past have been convoluted and inefficient when identifying and assessing the extent of IP infringement and violations. As a result, it has been difficult for the Armenian judiciary and government to determine the correct course of action regarding monetary remedies and legal punishment.

There are concepts under current existing Armenian laws that allow victims of IP infringement or violations to claim remedies based on the profits which the infringer is making, although often it is difficult to determine the profits of the infringer.

The availability of effective remedies and sanctions will encourage creative individuals and companies in Armenia and will encourage investment in Armenia.

**Recommendation A: Initiation of Copyright Registration process**

- (i) Institute a process for copyright registration at AIPO;
- (ii) Set fees for registrations that generates additional revenue stream for AIPO and the government budget;
- (iii) Incentivize registration by providing the possibility of augmented or additional damages for works of authorship that are registered relative to works that are not;
- (iv) Develop a database/system for depositing, storing, and retrieving registered works of authorship.



## **IP Protection & Corporate Law Improvement Report**

**October 29 , 2023 EVN-NYC**

*Recommendation B: Amending “Article 1137 - Liability for illegal use of the work”* as with the following text which has been tentatively approved by the Ministry of the Economy and the Ministry of Justice after discussions and deliberations with Ara Khzmalyan and Vanik Margaryan the latest of which took place on April 14, 2023 and has passed public discussion (<https://www.e-draft.am/projects/5733>) and is expected to be reviewed by the government for approval and sent to the National Assembly in the near future:

(i)

### **Article 1137 Liability for illegal use of the work**

1. In cases of use of the work without the permission of the rightsholder or without a basis provided for by law, the rightsholder may use the means of protection of his or her right mentioned in the second part of this Article, as well as other means provided for by law.
2. In case of use of the work in violation of the law, the rightsholder has the right to demand from the infringer:
  - a. compensation in the amount of twice the royalty or remuneration, which the rightsholder would have received if the infringer had been authorized to use the copyrighted material, or
  - b. compensation equivalent to the actual damages caused as a result of the infringement, including lost profits, or
  - c. compensation in the amount of 20 times to 2000 times of the established minimum salary.
3. In the cases provided for in section 2(c) of this Article, the rightsholder shall not be obliged to prove the amount of damage caused. In such cases, when determining the amount of compensation, the court should take into account the specific aspects of the given case including the nature and consequences of the infringement, the status of the infringing person, in particular the engagement in entrepreneurial activity, the existence and the degree of guilt, the material situation, and the fact that the violation has been eliminated at the request of the right holder. Moreover, if the rightsholder notified the infringer about the infringement before applying to the court, demanding the infringer to stop the infringement and informing him of the consequences provided for in section 2(c) of this Article in case of failure to stop the infringement, and the infringer refused to stop the infringement or did not stop the infringement before receiving the notice from the rightsholder, then within a ten-day period, the amount of compensation shall be set to be no less than 200 times the minimum wage.
4. In the case of a work with several rightsholders, the amount of the total compensation provided for in section 2(c) of this Article may not exceed the maximum amount provided for in the section and shall be compensated to the claimant rightsholder in the proportion that is provided for the distribution of the benefits derived from the use of the work by agreement between the rightsholders or by law.

## **IP Protection & Corporate Law Improvement Report**

**October 29 , 2023 EVN-NYC**

5. The requirement specified in section 2(c) of this Article may not be made in cases when the Government of the Republic of Armenia has set minimum rates for royalties for the corresponding use of the work.
  - (i) Previously, these provisions were included in a proposed package of changes on RA law “On copyright and related rights”, which was a big legislative reform package. However, subsequently, Armenia’s Ministry of Economy and Ministry of Justice have given approval for this recommendation to proceed as a separate legislative change pertaining to a specific portion of the law as opposed to having to wait for a complete overhaul and amendment of the law as a whole. Doing so, would likely be a more effective and quick approach to realizing its implementation.
  - (ii) This particular proposal has already been circulated among the other ministries and government agencies for review and has received positive feedback from many of them, including the Competition Protection Commission, and received no objections or negative comments.

**IP Protection & Corporate Law Improvement Report**  
**October 29 , 2023 EVN-NYC**

**Acknowledgements**

**Authors/Contributors/Reviewers**

The Economy Ministry of the Republic of Armenia:

Rafayel Gevorkyan

Armenia's Intellectual Property Office:

Kristine Hambaryan

Shushik Mkhitarian

Armenia's State Revenue Committee's (SRC) Legal Department's Customs Procedures and Intellectual Property Right Protection Procedures Division:

Samvel Ohanyan

Ani Hovhannisyan

Center of Legislation Development at Armenia's Ministry of Justice:

Davit Gharibyan

Armenian Bar Association's Intellectual Property and Information Technology Law Committee

<b>Section of the Report</b>	<b>Drafters</b>
Issue 1	Denise Darmanian - Gallo & Darmanian LLP.
Issue 2	Karen Tonoyan - Tono Law Group LLC
Issue 3	Seda Fabian - Klarity Intelligence, Inc. Lana Akopian - Markem-Imaje Corporation
Issue 4	Arthur Minasyan - Lewis Brisbois Bisgaard & Smith LLP Ara Khzmalyan - ADWISE Consulting Vanik Margaryan - AM Law Firm
Issue 5	Ara Khzmalyan - ADWISE Consulting Vanik Margaryan - AM Law Firm Mark Kachigian - Head, Johnson, Kachigian & Wilkinson, PC

Collaborators

Emma Arakelyan – Orion Worldwide Innovations

Armen Morian – Morian Law PLLC

Narek Chobanyan – Armenian Bar Association Pro Bono Clinic

Ida Anbarian – Armenian Bar Association Pro Bono Clinic

Annie Davtian – Lawsuit Law Firm