



Intellectual Property Rights Awareness Survey in Kenya

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List of Acronyms

FY Financial Year

IPRs Intellectual Property Rights

KIPI Kenya Industrial Property Institute

KSG Kenya School of Government

PCY Performance Contracting Year

PHSM Public Health and Social Measures

TRIPS Trade Related Aspects of Intellectual Property Rights

Executive Summary

The survey sought to evaluate awareness of intellectual property rights in Kenya. The study adopted cross-sectional survey design where respondents were randomly selected from five broad categories which included; business enterprises, learning institutions, religious and social organizations, government entities and individuals encompassing herbalists, innovators and inventors. The survey was scheduled long before the emergence of Covid-19 global pandemic which necessitated lock-downs and movement cessation. However, with eased public health and social measures, this study was administered in two phases with phase one in Nairobi in July, 2020 and phase two in October 2020 in the rest of the Country save for North Eastern Region.

The survey findings are as enumerated based on the three specific objectives of the study;

- i. Despite the cessation of movement due to Covid-19 pandemic, the study achieved a response rate of 87% from the targeted 1,114 randomly selected respondents countrywide.
- ii. The intellectual property rights awareness index was reported at 55% which is an improvement from the previous awareness index of 13.3% from an awareness report done in FY 2014/15.
- iii. The source of awareness included radio, television, word of mouth, online and print media.
- iv. Of the four components of intellectual property rights, over half of the respondents have heard of trade mark and patents whereas less than half have not heard of industrial designs and utility models.
- v. One in every four respondents did not know where to register their brand name or logo of their product or service whereas one in every four would turn to registrar of companies and one in every five would turn to the Institute.
- vi. In the last five years only 31% of the respondents have developed a new product and only 37% of them would seek to protect the new product or service.
- vii. From the respondents, 15% would license their intellectual property while 10% would pay royalties to use others' intellectual property rights.

- viii. On matters management of IPRs, 19% of the respondents have in each; a manager for IPRs, IPR policy and have assessed their IPR worth.
- ix. Overall, 28% of respondents would seek advice on intellectual property rights whereas higher proportions (40%) of learning institutions and government entities would seek advice.
- x. The Institute success in IP information dissemination was rated at just above average (51%).
- xi. Advertising on media and public sensitization were the key suggestions on how to the Institute can improve on delivering the mandate.

Definition of terms

Invention: means a solution to a specific problem in the field of technology.

Patents: offer inventors monopolies on their creations for specific periods, and thus provided incentives for research and development.

Utility Models: any form, configuration or disposition of element of some appliance, utensil, tool, electrical and electronic circuitry, instrument, handicraft mechanism or other object or any part of the same allowing a better or different functioning, use, or manufacture of the subject matter or that gives some utility, advantage, environmental benefit, saving or technical effect not available in Kenya before and includes micro-organisms or other self-replicable material, products of genetic resources, herbal as well as nutritional formulations which give new effects.

Industrial Designs: Any composition of lines or colors or any three dimensional form whether or not associated with lines or colors, provided that such composition or form gives a special appearance to a product of industry or handicraft and can serve as pattern for a product of industry or handicraft".

Trade Mark: a sign which serves to distinguish the goods of an industrial or a commercial enterprise or a group of such enterprises. The sign may consist of one or more distinctive works, letters, numbers, drawings or pictures, monograms, signatures, colors or combination of colors etc. The sign may consist also of combinations of any of the said elements. A Trade Mark can be a word, a symbol, a design, or a combination of these, used to distinguish the goods or services of one person or organization from those of others in the market place. The Trademarks Act (Cap 506) describes a mark as a distinguishing guise, slogan, device, brand, heading, label, ticket, name, signature, word, letter or numeral or any combination thereof whether rendered in two-dimensional or three-dimensional form

Technovation: means a solution to a specific problem in the field of technology, proposed by an employee of an enterprise in Kenya for use by that enterprise, and which relates to the activities of the enterprise but which, on the date of the proposal, has not been used or actively considered for use by that enterprise;

Section One: Introduction

Industrial Property Rights (IPRs) is a key pillar for economic development. IPRs provide instruments for transforming knowledge from a public good to a private good for trading in the market, while also enhancing free availability of technical information which grants full disclosure and protection (Janjua & Samad, 2007). The awareness of application for and use of intellectual property is low in developing countries. According to a study by Bolo et al., (2014), only 53% have reported low awareness of intellectual property while about 65% of innovators have not protected their inventions with only 12.9% of firms had secured patents in Kenya and of these just 7% reported having used their patents.

Promotion and protection of IPRs enhances economic development through provision of incentive to inventors. It provides recognition of individual's creativity and offers material rewards for the inventions. This contributes to improvements on the quality of technology, which in turn has a huge impact on human development. IPRs protection encourages research and development in research institutions and universities. Patent(s) in particular is a source of information for new and existing inventions. It also enables transfer of technology which promotes research and development. Patents also enhance monopoly of innovation promotion and gives protection to inventors.

The right to acquire and own property is enshrined in the Bill of Rights in the Constitution of Kenya, 2010 (Republic of Kenya, 2010). The Constitution recognizes intellectual property within the same parameters as land, goods and money as per article 260. The Kenyan government further commits itself to promoting the intellectual property rights of the citizens. Specifically, article 40 (5) obligates the Government to support, promote and protect the intellectual property rights of the people of Kenya. The state further recognizes the promotion of science and indigenous technologies in the development of the country in article 11(2)(b) and promoting the intellectual property rights of the people of Kenya in article 11(2)(c). Additionally, the State shall protect and enhance intellectual property in, and indigenous knowledge of, biodiversity and the genetic resources of the communities as referenced in article 69(c).

The Kenya Vision 2030 anchors science, technology and innovation in empowering research and development which plays critical roles in accelerating economic development in currently industrializing countries in the world. Protecting the IPRs of Kenyans will spur growth in this sector through various ways. Individuals and corporations will be motivated to employ more resources in research and development since they will be able to recoup these costs during the period when they will own the exclusive rights to the inventions as provided for in the Industrial Property Act 2001. The patent owner is required to make full disclosure of the invention. This avails opportunities for product or process improvement and growth in the industry due to further research.

1.1 The Kenya Industrial Property Institute

The Kenya Industrial Property Institute (KIPI), herein the Institute, was established on 2nd May 2002. The Institute is a public service body corporate established by section 3 of the Industrial Property Act, 2001 currently under the Ministry of Industrialization, Trade and Enterprise Development. The Industrial Property Act, 2001 protects the five elements of intellectual property rights which include: Patents; Utility models; Industrial designs; Trade mark and Technovations. The Institute's vision is to be **“A world class institution in administration of industrial property rights”** while the mission is **“To protect and promote industrial property rights and foster innovation for sustainable development in Kenya”**. The Institute has committed to offering efficient and effective public service in matters IPRs with confidentiality, customer focus, innovation, integrity, professionalism, and teamwork. The Institute's core functions are;

- a. consider applications for, grant and registration of industrial property rights;
- b. screen technology transfer agreements and licences;
- c. provide to the public, industrial property information for technological and economic development;
- d. promote inventiveness and innovativeness in Kenya; and
- e. organize and conduct training, competitions and awards relating to industrial property matters.

In the current structure, the Institute has a Research, Innovation and IPRs information functional department, which is mandated to perform the function of creating public awareness on IPRs. This function is anchored in the Strategic Plan 2018-2022.

1.2 Understanding of the terms of references

The Institute consulted Kenya School of Government (KSG) to undertake the intellectual property rights awareness survey in Kenya. The nationwide survey aimed at understanding changes to the previous IP Awareness of 13.31% in Financial Year (FY) 2014/15. According to the Performance Contract Year (PCY) 2014/2015, the Institute was mandated to increase the awareness index by 1.29% for 2017/18 and in consecutive years. In this regard, KSG undertook this research exercise in order to evaluate the intellectual property rights awareness level as per the following terms of reference.

- a. The sample population was drawn from;
 - i. Business enterprises: Sole proprietors, partnerships, limited public and private companies;
 - ii. Government entities: Ministries, state corporations and departments;
 - iii. Learning institution: Public and private universities, TVETs and research institutions;
 - iv. Religious and social organizations: NGOs, churches and SACCOS; and
 - v. Individuals: Traditional healers, innovators and inventors.
- b. Submit the findings (the survey reports including the final “Report on Industrial Property Awareness in Kenya”) to the Institute.

1.3 Objectives

The main objective of the survey was to evaluate the level of awareness of industrial property rights in Kenya and make appropriate recommendations.

In achieving the study objective, the research specifically endeavored to:

- a. Assess awareness of intellectual property rights in Kenya
- b. Evaluate the ownership of the intellectual property rights in Kenya
- c. Determine the management of intellectual property rights in Kenya

1.4 Justification

Kenya is signatory to several international laws and treaties related to Industrial Intellectual Property Rights. Secondly, there are several legislative instruments in Kenya guided by lawful regulation and frameworks on protection of Intellectual Property Rights. IPRs promotion and protection gives attention to patent, industrial design, utility models, trade mark and copyright. This provides the artists and inventors confidence and trust while at the same time offers them with lawful creative expansion. Ownership of IPR provides the inventor with income to recover the expenses incurred in production formation while also contributing to sustenance of current knowledge and technologies necessary for worldwide market development. IPR ownership further benefits the business community through assurance of product safety and quality hence increasing the innovative product and services which can withstand any competition in the market (Wekesa & Sihanya, 2009).

IPRs are widely known for enhancing growth in the global economies even as suggested by Gould & Gruben, (1997) study that adduced evidence that by providing incentives to innovators through intellectual property rights protection is a significant determinant of economic growth. De Soto, (2000) suggested that absence of protected IPRs system and lack of awareness about it turns assets in the developing countries into productive capital, traded outside, used as collateral for a loan, or share against investment. However, increases awareness of IPRs concept and protection culminates into technical know-how, local firm competitiveness resulting into expanded business opportunities.

The effectiveness of IPRs on economic growth in different countries depends upon their various stages of development innovative capability and imitative activities; technological development; and factor endowments (SATTAR & MAHMOOD, 2011).

1.5 Study limitations

The study faced various challenges during administration period which include: Government lockdown in order to follow the PHSMs, respondents being adamant in responding due to fear of contracting Covid-19, and low IPRs awareness within the general public making it harder for respondents to respond with ease.

Section Two: Methodology

2.1 Survey design and methodology

The study used a cross-sectional design to gather quantitative data from general public in Kenya. The targeted respondents included individuals from five categories which include: Business enterprises, learning institutions, religious and social organizations, government entities and individual citizens who included traditional healers, innovators and inventors.

On a similar capacity, KIPi contracted KSG to undertake a survey of level of commercialization among patent owners in Kenya and administer them concurrently. From the provided patent owners' database, there were two registered patent owners from North Eastern region specifically from Marsabit County whom by the time of survey, they were not active. Similarly, there were public health and social measures (PHSMs) instituted by Government which included; movement cessations, maintaining social distance, wearing masks, minimizing physical contacts amongst many in order to contain the spread of Covid-19 pandemic. The criteria for selection of a county for participation was informed by among other aspects, presence of active patent owners and based on this premise, none of the counties in North Eastern region were selected. On conforming to the PHSM specifically minimizing unnecessary movements and physical contacts, the research sample size for 2020 survey targeted half of the respondents per category on the previous similar study done in PCY 2014/15 which achieved a sample of 2224. The targeted sample size per category for this study are as shown in Table 0.1.

Table 0.1: Targeted sample size per respondent category

Category of respondents as per KIPi requirement	2015	2020
Individual Citizens (Innovators, Inventors, Herbalists)	1051	526
Business Enterprises (Sole, partnership, limited- private & public)	692	346
Learning and Research Institutions	185	93
Government (MDAs)	83	42
Religious and Social Organizations	213	107
Totals	2224	1114

The participants were randomly selected from 17 randomly selected counties within the previous seven administrative regions save for North Eastern region as articulated:

- i. Central (159): Kiambu, Murang'a and Nyeri
- ii. Nyanza (159): Homabay, Kisii and Kisumu
- iii. Western (159): Bungoma, Kakamega and Trans Nzoia
- iv. Eastern (159): Meru, Machakos and Makueni
- v. Coast (159): Mombasa
- vi. Rift valley (159): Baringo, Eldoret and Nakuru
- vii. Nairobi (160): Nairobi

There were two data collection phases where data collection in Nairobi happened in July 2020 and the rest of the regions in October 2020 after relaxation of the Covid-19 PHSMs. The primary data was collected using closed ended semi-structured questionnaire which was administered using face to face approach by the researchers. The researchers were involved in a week-long didactic training on research objectives, tools, respondents, and research ethics and code of conduct. The secondary data was obtained from relevant documents to supplement the primary data.

All ethical requirements in terms of consent, privacy, ethical conduct during survey and confidentiality was adhered to during the entire period of handling the data from the respondents to dissemination. The collected quantitative data was coded, cleaned and analyzed using Statistical Package for Social Sciences Version 20.0 with procedures aiming at answering the identified research objectives.

The analysis procedure involved univariate and bivariate technique. The univariate analysis involved computing the frequencies or measures of central tendency (mean) of items for each parameter under investigation and the results are presented in proportions either using tables or charts. For the bivariate analysis, Fisher test was done to investigate whether there is statistical significant relationship between the question under investigation and the respondent category. The results are presented in tables and where necessary, critical and alpha values for statistical significance are inserted.

Section Three: Survey Findings, Conclusions & Recommendations

The survey findings describe the respondent’s profile, knowledge and understanding of industrial property rights, ownership of intellectual property, and, management of industrial property rights.

3.1 Respondent’s profile

The respondents were grouped into five broad categories which include: Business enterprises (sole proprietors, partnerships, limited private and public companies); Learning and research institutions (public and private Universities, and TVET); Religious and social organizations (NGOs, churches, SACCOs); Government (ministry, department, and state corporations); and, Individuals (traditional healers, innovators and inventors. The survey achieved 974 out of the targeted 1114 respondents resulting into response rate of 87%.

Table 0.1: Sample distribution by region and respondent category

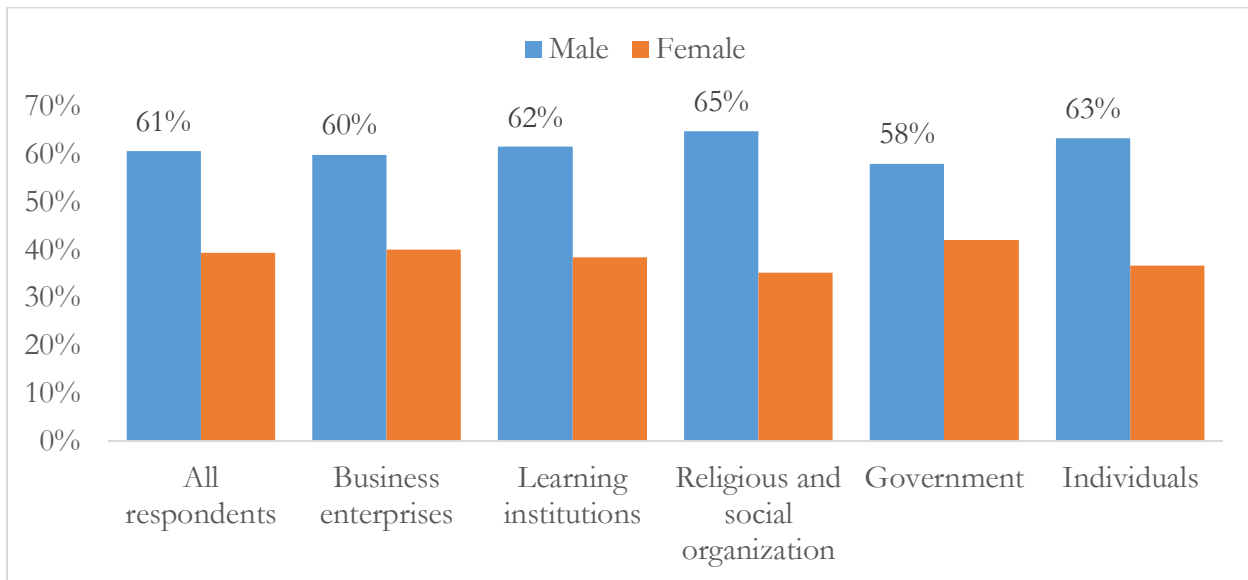
Region	Total	Business enterprises	Learning and research institutions	Religious and social organization	Government	Individuals
Total	974	671	52	54	50	147
Central	12%	10%	21%	13%	18%	14%
Coast	16%	15%	10%	7%	12%	24%
Eastern	16%	17%	15%	15%	20%	13%
Nairobi	9%	8%	2%	15%	22%	13%
Nyanza	14%	15%	19%	7%	8%	13%
Rift Valley	18%	20%	2%	28%	0%	15%
Western	15%	15%	31%	15%	20%	8%

Within the interviewed respondents (974), seven in every ten (69%) were business enterprises, 15% were individuals and 5% apiece for the rest of the categories as shown

in Table 0.1. As per the regions, there was a fair distribution of respondents except for Nairobi region which had 9% because by the time of data collection (July, 2020), all the learning institutions were closed by the Government to conform to PHSMs for containing Covid-19 spread.

The respondents were delineated by their gender as shown in Figure 0.1.

Figure 0.1: Gender distribution by the respondent category



As shown in Figure 0.1, the respondent's gender distribution was male dominated at 61% and this pattern is replicated among all the respondent categories. However, to evaluate whether there is an association between gender and category of respondent, the Fishers test indicated that the difference occurred due to chance and therefore there is no association between gender and category of respondent.

The business registration by category of respondent is presented in Table 0.2.

Table 0.2: Business type and registration status by respondent category

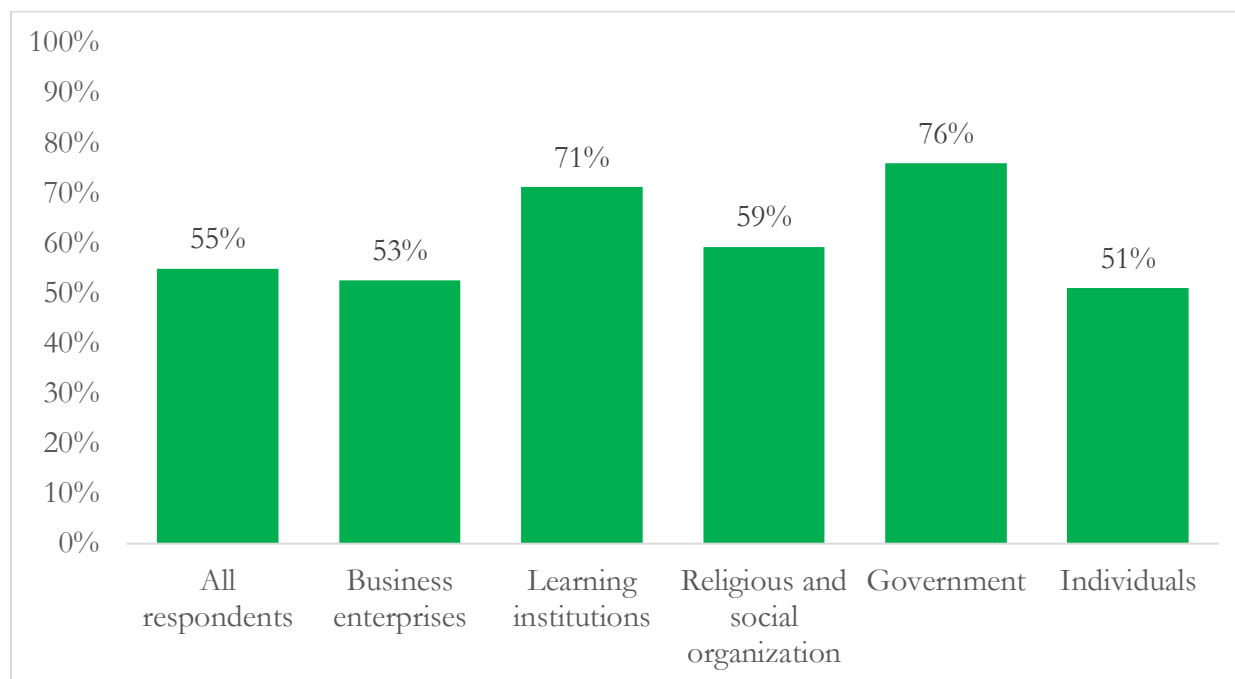
	Total	Business enterprises	Learning and research institutions	Religious and social organization	Individuals
	924	671	52	54	147
Registered	60%	61%	62%	81%	46%
Not registered	40%	39%	38%	19%	54%

The respondents were asked how many employees are engaged in the activities of their business enterprise or the institution. Owing to the diversity of the government ministries, agencies and state corporations, this question was omitted for analysis. Additionally, Table 0.2 displays the registration status of the business or institution as represented by the respondent where 60% were registered. Notably, 81% of the religious and social organization and just about half (49%) of the individuals were registered. Further analysis indicated that registration status differs significantly across the respondent categories (Fishers=23.6 and p-value=0.00) which is indication that there is an association between registration status of the business or entity and the category of the respondent.

3.2 Industrial property knowledge and understanding

Several social studies have devised various ways of computing awareness index whose formulae is the total real score of the parameter divided by the maximum score of the parameter of interest (Susanto et al., 2019). The result is further divided into five categories which are labelled “High awareness for score between 80 and 100%”, “Readily aware for scores between 65 to 79%”, “Almost aware for scores between 55 to 64%” Less aware for scores between 40 to 54%” and “Not aware for scores between 0 to 39%”.

Figure 0.2: Intellectual property rights awareness index across respondents' categories



In this study, the intellectual property rights overall awareness index can be categorized as “Almost aware’ with an index of 55%. On further scrutiny with respect to respondent categorization, learning institutional and government (Ministry, Department or Agency) are “Readily aware’ with over 70% awareness index whereas the other three categories can be classified as “Almost aware as indicated in Figure 0.2. The higher intellectual property awareness by learning and research institutions, and government is an indication of closer collaboration with the Institute in protecting innovations, whereas the just above average awareness levels by individual and business enterprises could be attributed to laxity. Further analysis indicate that awareness levels are significantly different across the respondent categories (Fishers=17.6, p-value=0.01) which is an indication that there is an association between awareness and the category of respondent. Additionally, the respondents were asked of the medium through which they got intellectual property rights information. The media choices were: online media (29%), word of mouth (26%), television (23%), radio (22%) and print media at (15%).

To evaluate the knowledge and understanding of intellectual property rights, the respondents were asked whether they have ever heard of patent, trade mark, utility model or industrial design.

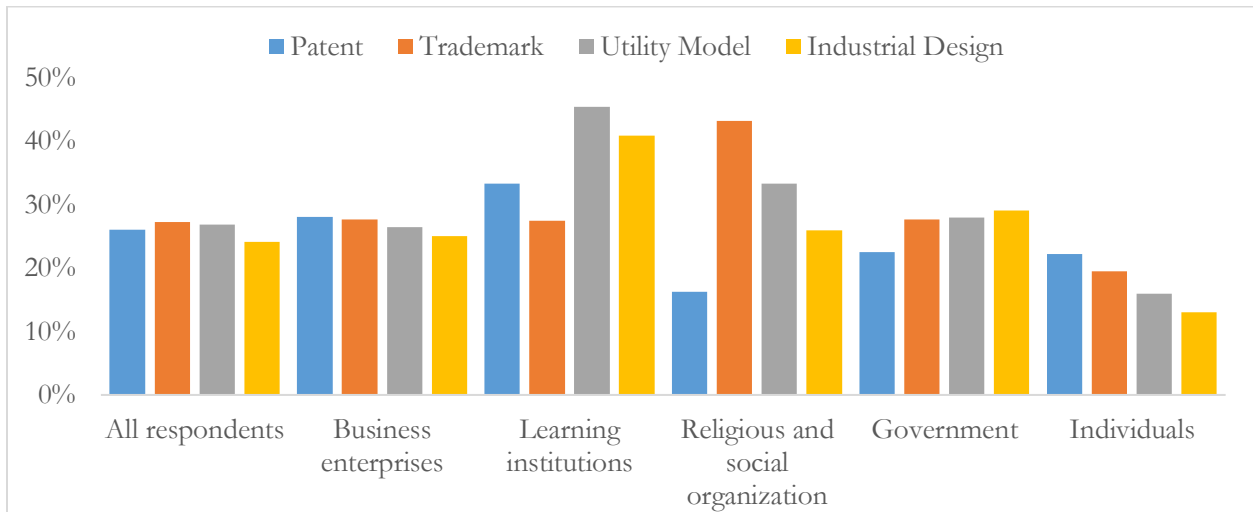
Table 0.3: Heard of patent, trade mark, utility model or industrial design

	All respondents	Business enterprises	Learning and research institutions	Religious and social organization	Government	Individuals
	974	671	52	54	50	147
Patent	52%	45%	69%	69%	80%	61%
Trade mark	70%	65%	77%	81%	94%	80%
Utility Model	29%	27%	42%	33%	50%	30%
Industrial Design	40%	35%	42%	50%	62%	47%
None	23%	29%	15%	15%	2%	12%

Table 0.3 indicates that, 70% of the respondents have heard of trade mark, 52% have heard of patent, 40% have heard of industrial design and 29% have heard of utility model. However, one in every four (23%) of the respondents have not heard of any of the intellectual property components. Over half of respondents from government entities, religious entities and learning and research institutions were more versed with patent, trade mark, utility model and industrial design. Unexpectedly, the respondents categorized as individuals were more versed than respondents who were categorized as business owners engaged in enterprises.

The respondents who were aware of the IPRs were asked if they have registered them.

Figure 0.3: Ownership of IPRs per respondent category



The results indicate that on average one in every four have registered their IPRs with patent at 26%, trade mark (27%), utility model (27%) and industrial design (24%). The respondent drawn from learning and research institutions, and religious and social organizations were in the fore front as depicted on Figure 0.3.

The survey also sought to know where the respondents would register a brand name of logo.

Figure 0.4: Where to register brand name or logo for a new product

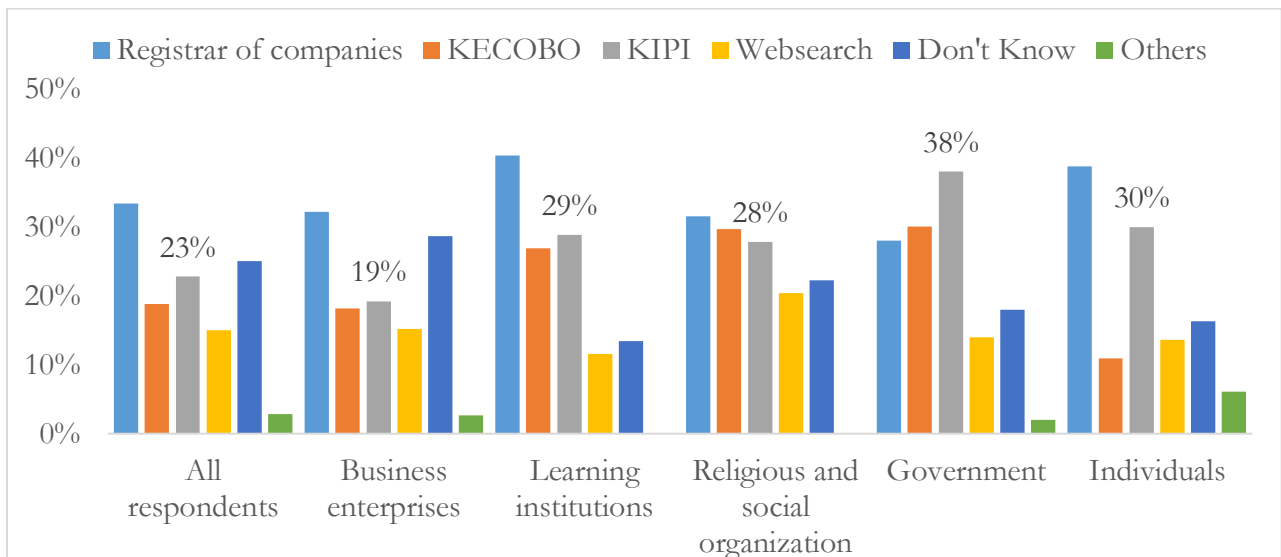


Figure 0.4 indicates that if respondents came up with brand name or logo for a new product, one in every three (33%), would register with registrar of companies, one in every four (25%) did not have a clue of where to register to, 23% would turn to Kenya Industrial Property Institute, 19% would turn to KECOBO while 15% would turn to internet to search for solutions. It was noted that a high proportion (29%) of the business enterprises did not know where to register their IPRs.

The respondents were further asked to mention what they would seek if they came up with an invention of a product and service as indicated in Table 0.4.

Table 0.4: Type IPRs to seek if respondent came up with product or service invention

	All respondent s 974	Business enterpris es 671	Learning and research institutio ns 52	Religious and social organizatio n 54	Government t 50	Individual s 147
Trade mark/ Service mark	37%	35%	40%	50%	44%	35%
Patent	33%	29%	37%	28%	50%	44%
Copyright	17%	16%	19%	19%	30%	16%
Industrial design	13%	12%	15%	11%	18%	17%
Utility models	9%	8%	21%	15%	14%	5%
Don't know	23%	27%	10%	20%	10%	18%
Others	0%	0%	0%	0%	2%	0%

The results from Table 0.4 indicate that 37% would seek for trade mark, 33% would seek for patent, 17 % would seek copyright, 13% would seek industrial design, 9% would seek utility model while 25% did not know what property rights to seek.

Additionally, respondents were asked which IPR they would seek if they came up with invention of distinctive signs for a product or service as indicated in Table 0.5.

Table 0.5: IPRs to seek in-case of innovation or invention by respondent categories

	All respondent s	Business enterpris es	Learning institutio ns	Religious and social organizatio n	Government	Individual s
	974	671	52	54	50	147
Trade mark/ Service mark	40%	39%	44%	50%	42%	42%
Patent	25%	22%	29%	24%	36%	31%
Copyright	17%	15%	25%	17%	38%	15%
Industrial design	15%	12%	21%	15%	26%	19%
Utility models	12%	11%	15%	13%	20%	12%
Don't know	24%	27%	12%	20%	10%	16%
Others	0%	0%	0%	0%	0%	0%

The result indicated that two in every five (40%) stated they would seek trade mark, one in every four (25%) for patent, 17% for copyright, 15% for industrial design, 12% for utility models while one in every four (25%) did not know what to seek intellectual property right for the distinctive signs. Since distinctive signs are preserve of trade marks, it is apparent that consumer education is necessary for respondent to clearly understand the concept each IPRs.

Similarly the respondents were asked which IPR they should seek for shape, pattern or color of a new product or service and the responses are shown in Table 0.6.

Table 0.6: IPRs to seek for shape, pattern or color for a developed service or product

	All respondents	Business enterprise	Learning institutions	Religious and social organization	Government	Individuals
	974	671	52	54	50	147
Trade marks/ Service mark	30%	32%	33%	31%	38%	20%
Patent	18%	17%	19%	20%	26%	16%
Copyright	15%	12%	15%	22%	30%	19%
Industrial design	22%	20%	33%	20%	36%	26%
Utility models	10%	9%	17%	13%	16%	9%
Don't know	27%	30%	6%	26%	14%	26%
Others	0%	0%	2%	0%	0%	0%

The result indicate that 30% would seek trade mark, 18% for patent, 15% for copyright, 22% for industrial design, 10% for utility models and 27% do not know what intellectual property right they would seek for the shape, pattern or color of new product or service. This implies that the respondents are not well versed with the contents and elements of each IPRs.

3.3 Ownership of intellectual property

The respondents were evaluated on their ownership of intellectual property rights by responding to a series of questions.

Figure 0.5: Developed a product or service in the last five years by category of respondent

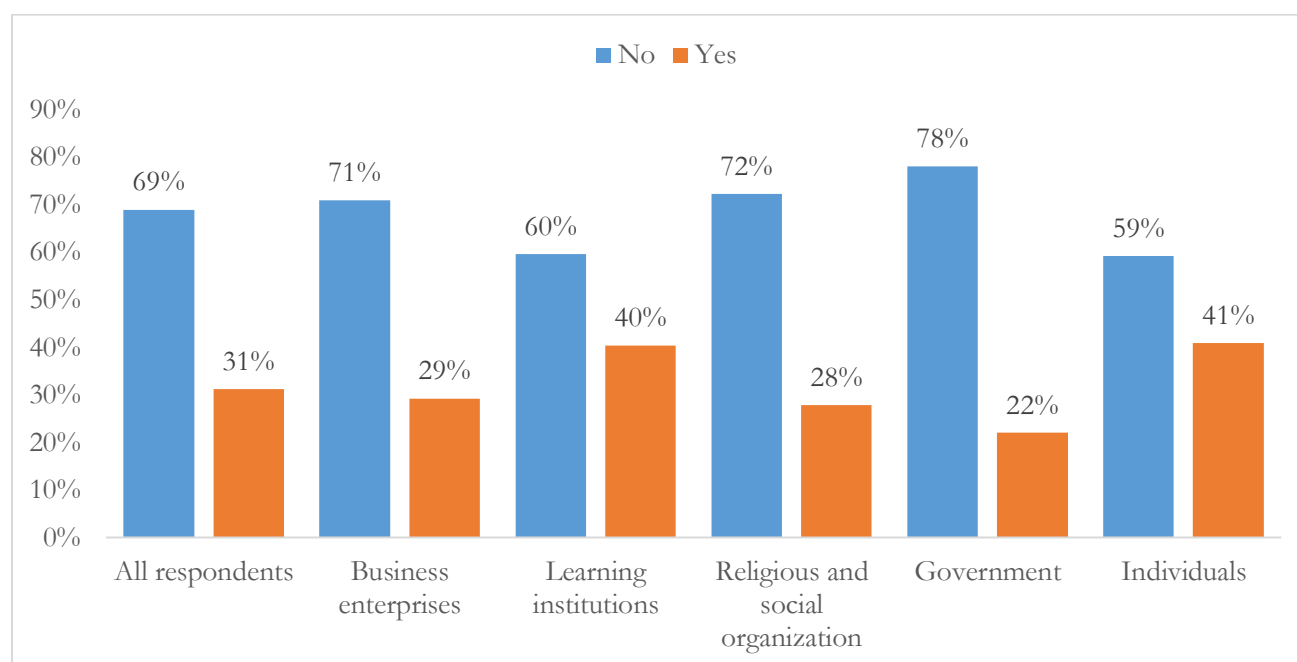


Figure 0.5 shows that in the last five years, three in every ten respondents (31%) have developed a product or service that have greatly improved their service delivery. In respect to the same question, 22% of respondents each drawn from government entities, religious and social organizations, and business enterprises have developed a new product or service in the last five years. Four in every ten (40%) of respondents from learning and research institutions and individuals have developed a new product in the last five years. There measures of association indicated a statistical significant association (Fishers=11.6, p-value=0.02) between development of a new product or service and respondent categories.

For the respondents who have developed a product of service in the last five years, they were asked if they have sought to protect their innovation. The results indicated that in overall 37% have sought to protect their innovation. Within the respondent categories, 35% of business enterprises, 43% of learning and research institutions, 33% religious and social organizations, 82% of government entities and 37% of individuals have sought to protect their product or service that they developed in the last five years.

The respondents were asked if they create any IPRs and the results are shown in Table 0.7.

Table 0.7: Creation or ownership of intellectual property right by respondent category

	All respondents	Business enterprises	Learning and research institutions	Religious and social organization	Government	Individuals
	974	671	52	54	50	147
Patent	13%	13%	10%	15%	18%	10%
Trade mark	23%	21%	33%	33%	28%	22%
Utility models	6%	6%	12%	4%	12%	7%
Industrial design	10%	10%	19%	7%	14%	9%
Don't know	56%	57%	42%	48%	52%	61%

Out of the 974 respondents, 13% have patents, 23% have trade mark, 6% have utility models, 10% have industrial design and over half (56%) have not created or owned any of the intellectual property rights. This pattern of ownership or creation of any of the intellectual property right is similar across respondent categories as shown in Table 0.7.

On legal matters, respondents were asked if they have ever been involved in legal disputes involving intellectual property rights regarding their products or services.

Table 0.8: Engagement in legal battle and outcome per respondent category

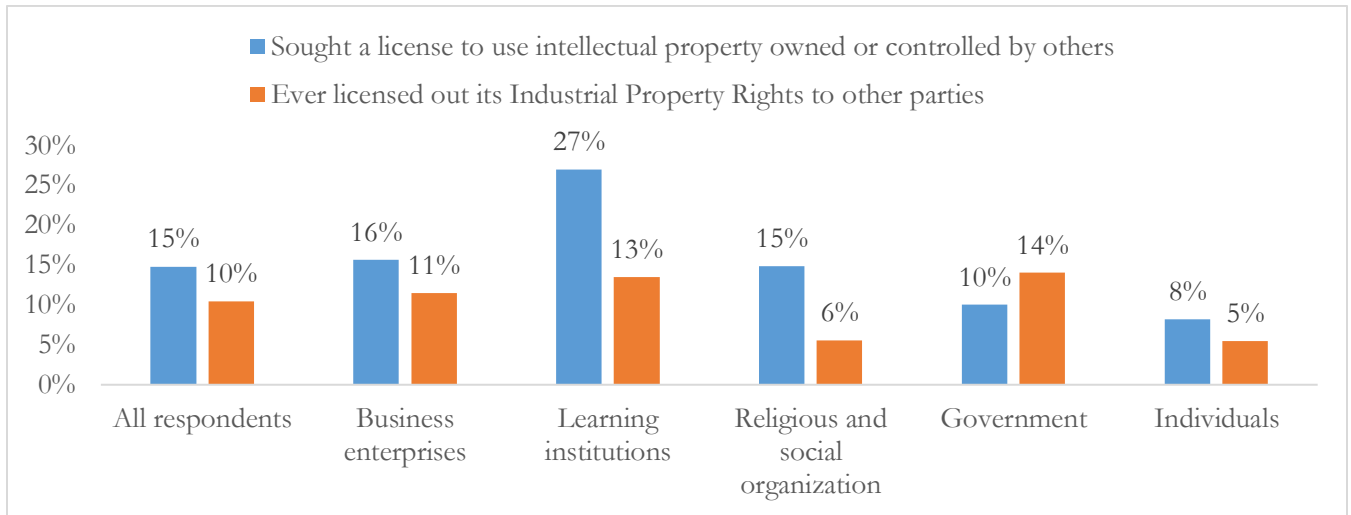
	All respondents	Business enterprises	Learning and research institutions	Religious and social organizations	Government	Individuals
Involved in legal dispute in IPRs	11%	12%	12%	4%	16%	7%
Outcome of the legal dispute						
Won	38%	32%	50%	100%	50%	55%
Lost	36%	37%	33%	0%	38%	36%
Still in court	26%	31%	17%	0%	13%	9%

From those interviewed, only one in every ten (11%) have been involved in legal disputes. Across the respondent categories, 12% were business enterprises and learning and research institutions each, 4% were religious and social organizations, 16% were government entities while 7% were individuals as shown in Table 0.8.

For those who had legal dispute, 38% won the case, 36% lost while the rest are still in court as shown in Table 0.8. The pattern is similar across the respondent categories although all the respondents in the religious and social organizations and half of government entities won their cases.

With respect to licensing, the respondents were asked if they have ever sought a license to use the IPRs or whether they have licensed out their IPRs to other parties and the results as indicated in Figure 0.6

Figure 0.6: Licensing and royalties by respondent categories



The results indicates 15% of all the respondents have sought license to use IPRs controlled by others. Among the respondent categories, 16% of business enterprises, 27% of learning and research institutions, 15% of religious and social organizations, 10% of government and 8% of individuals would seek licenses to use of intellectual property owned or controlled by others.

On the other hand, 10% of all respondents have ever licensed out their IPRs to other parties in return for royalties. Across the respondent categories, 11% of business enterprises, 13% of learning and research institutions, 6% of religious and social organizations, 14% of government entities and 5% of individuals have licensed their intellectual property rights to be used by others in return for royalties as shown in Figure 0.6. The responses from these two questions is an implication that there is limited knowledge on how to attain royalties through licensing IPRs.

3.4 Management of intellectual property rights.

The respondents were asked to state how they manage intellectual property rights as can be Table 0.9.

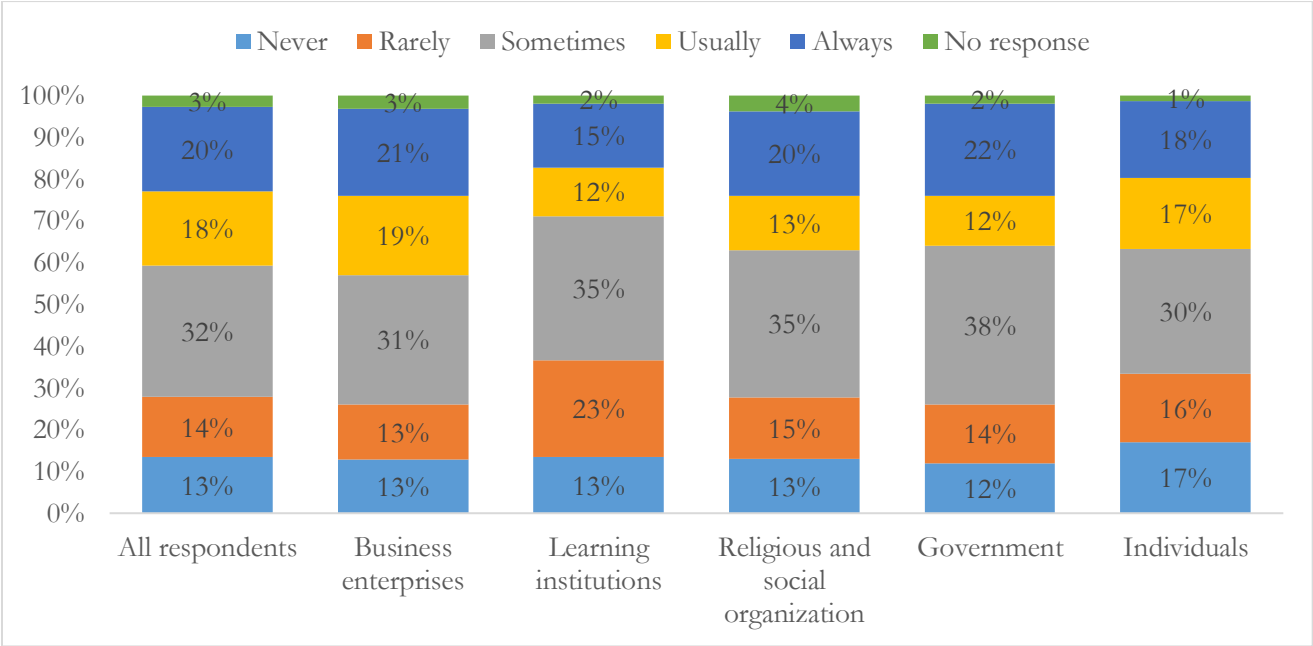
Table 0.9 Management of intellectual property rights by respondent category

	All respondents	Business enterprises	Learning institutions	Religious and social organization	Government	Individuals	Fishes	p-value
	974	671	52	54	50	147		
Anyone responsible for managing IPR	19%	19%	37%	28%	34%	7%	35.6	0.00
Ever tried to assess IPRs worth	19%	20%	31%	20%	22%	11%	11.9	0.02
Ever had IPRs professionally valued	18%	19%	31%	13%	24%	6%	25.0	0.00
Possession of IPRs policy	20%	19%	31%	28%	32%	12%	16.5	0.00
Any training in IPR issues	20%	19%	29%	24%	32%	14%	11.6	0.19
Offering incentives to staff to obtain IPRs	15%	16%	21%	19%	18%	7%	12.4	0.01
Actively check for potential infringements	24%	24%	37%	24%	38%	16%	14.4	0.01
Ever sought advice on IPRS	28%	27%	42%	30%	42%	23%	12.0	0.02

The results from Table 0.9 indicates that, overall 19% of the respondents have somebody who is specifically assigned responsibility for managing intellectual property rights, 19% have tried to assess worth of their industrial property and 18% have valued their intellectual property. Moreover, one in every five (20%) have IP policy and have been trained on industrial property issues, while, 15% offer specific incentives to their staff to obtain industrial property rights. Additionally, one in every four (24%) actively check for potential infringements, and 28% have sought advice on industrial property rights. The proportions for other categories of respondents are shown in Table 0.9 which also shows there is significant association between all aspects of management of industrial property rights and category of respondents. Further, Fishers test indicate that there is a significant relationship between each question and respondent category save for provision of any training in IPR issues (Fishers=11.6, p-value=0.19).

In the management of intellectual property rights, respondents were asked to rate the extent to which they would seek external advice to protect their goods or services using a rating of 1 for “Never” and 5 for “Always” and the responses are shown in Figure 0.7.

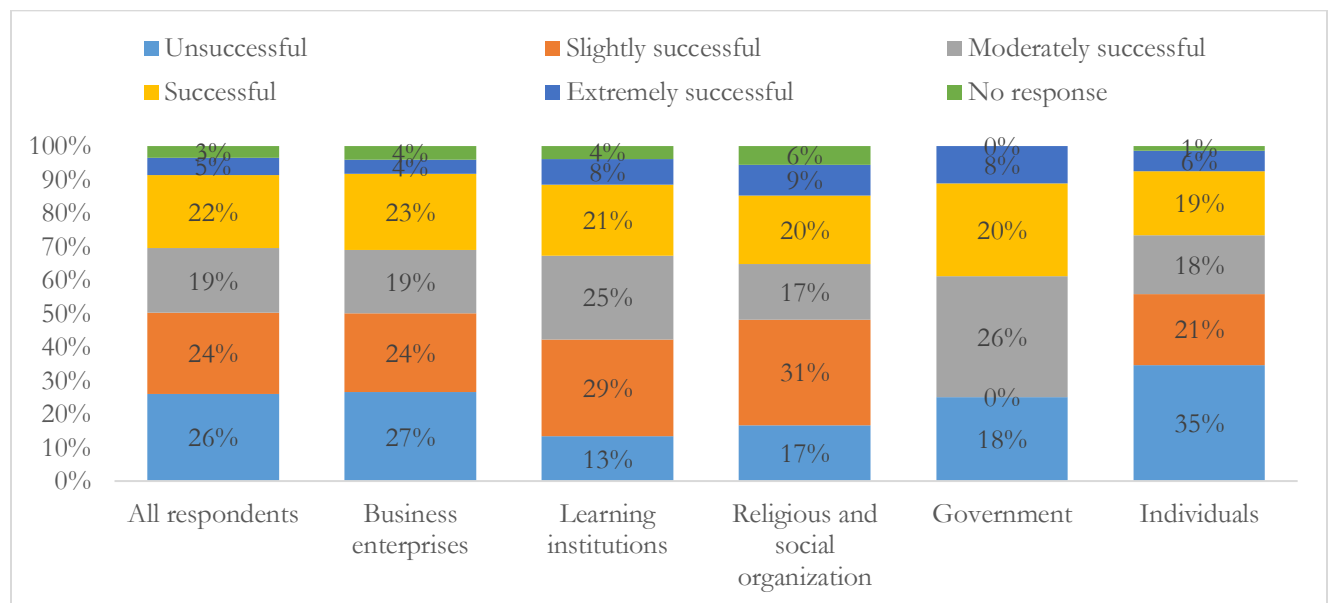
Figure 0.7: Seeking external advice for intellectual property by respondent categories



Using measures of central tendency, a mean was computed for rating each of the respondent category and translated to 100 percent. All the respondents had a 63% (mean=3.17) likelihood of seeking external advice, business enterprises had 65% (mean=3.23), learning institutions had 58% (mean=2.92), religious and social organizations had 63% (mean=3.13), government entities had 64% (mean=3.18) while individuals had a likelihood of 61% (mean=3.03). The rating for other responses cross-tabulated by the respondent categories can be read from Figure 0.7. The analysis of variance showed that there is no significant statistical relationship among respondent categories and need for seeking external advice on intellectual property rights (Fishers=1.49, p-value=0.204). Majority of the respondents would seek for external advice when considering issues involving intellectual property.

Further, the respondents were asked to evaluate the extent of success of the Institute in dissemination of IP information using a scale of 1 to mean unsuccessful and 5 to mean extremely successful.

Figure 0.8: Institute’s success in disseminating IP information by respondent category



The response ratings are used to compute a mean out of 5 which is then converted into a percentage. All the respondents rated the Institute’s success at 51% (mean=2.5) as

shown in Figure 0.8. With respect to respondent categories, business enterprise rated at 51% (mean=2.5), learning and research institutions at 56% (mean=2.8), religious and social organizations and government entities at 54% (mean=2.7), and individuals at 48% with a mean of 2.4 out of 5. Further, analysis of variance indicated that there is no relationship between rating the success of the Institute and the respondent category (Fishers=1.77, p-value=0.132). It can be concluded that the mean level of success of the Institute across the respondents is 51%.

The respondents also gave suggestions on how the Institute can disseminate IP information to the general public and the responses are shown in Table 0.10.

Table 0.10: Channels for disseminating IP information

	All respondents	Business enterprises	Learning and research institutions	Religious and social organization	Government	Individuals
	974	671	52	54	50	147
Media	52%	54%	46%	56%	48%	48%
Advertisement						
Public sensitization	49%	46%	54%	57%	68%	53%
Catalogues	3%	3%	2%	11%	2%	2%
No response	4%	4%	6%	4%	0%	1%

Over half (52%) of the respondents suggested the Institute to advertise on media, just about half (49%) to perform public sensitization and others (3%) suggested use of catalogues. The rest of suggestions by category of the respondents can be read from Table 0.10.

3.5 Conclusion

The respondents who indicated to have higher awareness of Intellectual Property Rights are those associated with learning and research institutions and government entities. This is an indication of strong collaborations between these institutions and the Institute in protection of innovations and inventions. However, business enterprises, religious and social institutions and individuals (traditional healers, innovators and inventors) have lower awareness of intellectual property rights. This is an indication that the Institute's outreach activities have not created enough awareness among this category.

Majority of the respondents have heard of trade mark, while just below half of the respondents have heard of patent, industrial design and utility model. This implies that trade mark is the only aspect of IP that is well known and the Institute need to educate the general public on all aspects on IPRs.

Two in every five respondents sought to protect their innovation, in the last five years which is implication that there is a low level of awareness on IP protection in the country. Few respondents also indicated that they do licensing and others get royalties for their inventions or innovations. This is because of limited knowledge on how to attain royalties through licensing IPRs.

Very few respondents indicated to have IP policies, have been trained, checked IP infringements or sought external advice on Intellectual Property Rights. This is as a result of low awareness on IP management. The respondents rated the Institute in dissemination of IP information at just above average which can be attributed to low level of IP awareness among the respondents.

3.6 Recommendations

To help the Institute raise the level of IP awareness in the country, the report advises on the following actions:

- a. Deepen collaboration and linkages between the Institute and institutions of higher learning and research.
- b. Enhance outreach activities targeting business enterprises, religious and social institutions and individuals (traditional healers, innovators and inventors).
- c. Sensitize and train business enterprises especially MSMEs in all aspects of IP rights.
- d. Educate the MSMEs on the importance of IP protection and accruing benefits.
- e. Facilitate the development of institutional IP policies for innovators and inventors.
- f. Enhance the Institute's brand image through publicity programmes through the media and distribution of information, education and communication material.

References

- Bolo, M., Odongo, D., Awino, V., Achieng, V., & Onyango, C. (2014). *Stuck On The Road To The Market: Why Kenya*.
- De Soto, H. (2000). *The mystery of capital: Why capitalism triumphs in the West and fails everywhere else*. Civitas Books.
- Gould, D. M., & Gruben, W. C. (1997). The role of intellectual property rights in economic growth. In *Dynamics of globalization and development* (pp. 209-241). Springer.
- Janjua, P. Z., & Samad, G. (2007). Intellectual property rights and economic growth: The case of middle income developing countries. *The Pakistan Development Review*, 711-722.
- Republic of Kenya. (2010). *The Constitution of Kenya: 2010*. Chief Registrar of the Judiciary.
http://www.kipi.go.ke/images/docs/constitution_of_kenya_2010.pdf
- Sattar, A., & Mahmood, T. (2011). Intellectual Property Rights And Economic Growth: Evidences From High, Middle And Low Income Countries. *Pakistan Economic and Social Review*, 49(2), 163-186. JSTOR. <http://www.jstor.org/stable/23622109>
- Susanto, N., Prastawa, H., Triadi Putranto, T., & Aura Zakina, O. (2019). *Improving the awareness index of government and non-departmental government institutions for landslide cases in Semarang city* (AIP Conference Proceedings 2019). <https://doi.org/10.1063/1.5061856>
- Wekesa, M., & Sihanya, B. (2009). *Intellectual property rights in Kenya*. Konrad Adenauer Stiftung.



Appendix: IPR awareness questionnaire

Serial Number Date

Kenya School of Government

IP AWARENESS SURVEY QUESTIONNAIRE FOR BUSINESS ENTERPRISES

INTRODUCTION

My name is ----- from the Kenya School of Government. We are carrying out a survey for the Kenya Industrial Property Institute (KIPI), whose core function is the administration of industrial property rights in Kenya as mandated by the Industrial Property Act 2001, No. 3 and the Trade Marks Act CAP 506. This survey evaluates the level of awareness of industrial property rights among citizens in Kenya. As such, you are kindly requested respond to questions in this interview with honesty and integrity. Your responses will be treated with utmost confidentiality and only used for purposes of report for improving service delivery in future. Kindly note that you are not coerced to undertake the exercise.

CLASSIFICATION

- Gender of the respondent Male Female
- County of operation _____
- Category of respondent
 - Business ownership Sole proprietors Partnerships
 - Limited private companies Limited public companies
 - Learning institutions Public universities Private universities
 - Colleges Research institutions.
 - Religious and social organization NGOs Churches Saccos
 - Government Ministries Departments State corporations
 - Individuals Traditional healers Innovators and Inventors
 - Business type (SMES) Micro Small Large
 - Business registration status Registered Not registered
 - Number of employees in business

PART B: INDUSTRIAL PROPERTY KNOWLEDGE AND UNDERSTANDING

- Have you ever heard of Industrial Property Rights? Yes No
- If yes, from which source did you hear from? Radio Television
-

Online media Print media Word of mouth

6. Have you ever heard of ?

- | | | | | |
|----------------------------|------------------------------|-----|--------------------------|--------------------------|
| a. Patent | <input type="checkbox"/> | Yes | No | <input type="checkbox"/> |
| b. Trade mark | Yes <input type="checkbox"/> | No | <input type="checkbox"/> | |
| c. Utility Model | <input type="checkbox"/> | Yes | No | <input type="checkbox"/> |
| d. Industrial Design | <input type="checkbox"/> | Yes | No | <input type="checkbox"/> |

7. [IF YES TO ANY CHOICES IN Q6] Have you ever obtained?

- | | | | | |
|----------------------------|--------------------------|-----|----|--------------------------|
| a. Patent | <input type="checkbox"/> | Yes | No | <input type="checkbox"/> |
| b. Trade mark | <input type="checkbox"/> | Yes | No | <input type="checkbox"/> |
| c. Utility Model | <input type="checkbox"/> | Yes | No | <input type="checkbox"/> |
| d. Industrial Design | <input type="checkbox"/> | Yes | No | <input type="checkbox"/> |

8. If you were to register a brand name or logo for a new product where would you seek registration? [TICK ALL MENTIONS]

- | | |
|---|---|
| <input type="checkbox"/> Registrar of companies | <input type="checkbox"/> Kenya Copyright Board (KECOBO) |
| <input type="checkbox"/> Kenya Industrial Property Institute (KIPI) | |
| <input type="checkbox"/> Web search | <input type="checkbox"/> Don't know |
| <input type="checkbox"/> Other (Please specify) _____ | |

9. What type Industrial Property Rights would you seek if you came up with invention of a product or service? [TICK ALL MENTIONS]

- | | | |
|---|---|-------------------------------------|
| <input type="checkbox"/> Trade marks/Service mark | <input type="checkbox"/> Patent | <input type="checkbox"/> Copyright |
| <input type="checkbox"/> Industrial design | <input type="checkbox"/> Utility models | <input type="checkbox"/> Don't know |
| <input type="checkbox"/> Other (Please specify) _____ | | |

10. What type of Industrial Property Rights would you seek if you come up with an invention of distinctive signs for goods or services? [TICK ALL MENTIONS]

- | | | |
|---|---|-------------------------------------|
| <input type="checkbox"/> Trade marks/Service mark | <input type="checkbox"/> Patent | <input type="checkbox"/> Copyright |
| <input type="checkbox"/> Industrial design | <input type="checkbox"/> Utility models | <input type="checkbox"/> Don't know |
| <input type="checkbox"/> Other (Please specify) _____ | | |

11. What type of Industrial Property Rights would you seek for the shape pattern or color of a service of product that you developed?

- | | | |
|---|---|-------------------------------------|
| <input type="checkbox"/> Trade marks/Service mark | <input type="checkbox"/> Patent | <input type="checkbox"/> Copyright |
| <input type="checkbox"/> Industrial design | <input type="checkbox"/> Utility models | <input type="checkbox"/> Don't know |
| <input type="checkbox"/> Other (Please specify) _____ | | |

12. If an employee in the business enterprise makes an innovation while on employment, can you register his/her for Industrial Property Rights for that invention?

Yes No

PART C: OWNERSHIP OF INTELLECTUAL PROPERTY

13. Have you developed any products or services that are significantly improved or completely new in the last five years? Yes No

14. If yes, have you sought to protect this innovation? Yes No

15. Do you/ your business enterprise create or own any of the following Industrial Property Rights?

Patents Trade marks Utility models Industrial designs

16. Approximately how much does your business enterprise spend on obtaining Industrial Property Rights each year?

17. Have you or your business enterprise ever been involved in a legal dispute involving Industrial Property Rights? Yes No

18. If yes what was the outcome? Won Lost Still in court

19. Have you or your business enterprise ever sought a license to use intellectual property owned or controlled by others? Yes No

20. Has your business enterprise ever licensed out its Industrial Property Rights to other parties? Yes No

PART D: MANAGEMENT OF INDUSTRIAL PROPERTY RIGHTS

21. Is anyone in your business enterprise specifically assigned responsibility for managing Industrial Property Rights? Yes No

22. Has your business enterprise ever tried to assess how much your Industrial Property is worth? Yes No

23. Has your business enterprise ever had Industrial Property professionally valued? Yes No

24. Does your business enterprise have an overall Industrial Property Policy? Yes No

25. Is any training in Industrial Property issues provided by your business enterprise to its staff? Yes No

- | | | |
|--|-----|----|
| | Yes | No |
|--|-----|----|
26. Are your business enterprise staff offered any specific incentives to obtain Industrial Property Rights? Yes No
27. Does your business enterprise actively check for potential infringements? Yes No
28. Has your business enterprise ever sought advice on Industrial Property Rights? Yes No
29. If Yes, from whom? KIPI External patent/ trade mark lawyer
 In house legal expert Other (Please specify) _____
30. Has your business enterprise ever used or searched Patent, Trade mark or other Industrial Property Rights database? Yes No
31. To what extent you think your business enterprise would need external advice when considering issues involving intellectual property
 Always Usually Sometimes Rarely Never
32. How would you rate the success of KIPI in disseminating Industrial Property Rights?
 Unsuccessful Slightly successful Moderately successful
 Successful Extremely successful
33. What should KIPI do to make Industrial Property Rights information more widely available?
 Advertise on media Public sensitization
 Enactment of KIPI Act Other (Please specify) _____

THANK YOU