



# GLOBAL EXPANSION GUIDEBOOK

IPT

*Angola*



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## INTRODUCTION

Welcome to the 2024 edition of DLA Piper's *Global Expansion Guidebook – Intellectual Property and Technology*.

### GLOBAL EXPANSION GUIDEBOOK SERIES

Many companies today aim to scale their businesses globally and into multiple countries simultaneously. In order to help clients meet this challenge, we have created a handy set of global guides that cover the basics companies need to know. The *Global Expansion Guidebook* series reviews business-relevant corporate, employment, equity compensation, intellectual property and technology, and tax laws in key jurisdictions around the world.

### INTELLECTUAL PROPERTY AND TECHNOLOGY

Inside this guide, we outline crucial aspects of IPT laws in over 40 jurisdictions that are particularly relevant to businesses seeking to expand their operations globally. We also summarize some fundamental commercial terms that customarily appear in IPT-related agreements.

You will find answers to such common questions as:

- Which jurisdictions recognize moral rights?
- What does my business need to do to have an enforceable assignment of intellectual property from an employee, from a consultant?
- What kind of liability can be excluded from a commercial contract?

With this edition, we've also included a section for each country that discusses the enforceability of electronic signatures.

Our goal is to make the guide as readable and informative as possible, providing you just the background you need to get an overview of the IPT laws in the selected jurisdictions. This is not a substitute for professional legal advice. If you have questions regarding specific matters, we encourage you to contact one of our contributors listed in the contributors section of this guide. With nearly 500 dedicated IPT lawyers around the globe, DLA Piper's IPT group is ready to handle your legal needs wherever you do business.

Also, please note that the guide's use of the term "trademarks" also refers to service marks, unless specifically addressed separately. The summary of intellectual property covers only the most commonly used categories worldwide (for example, we have not addressed plant patents). We have also referred to international treaties and conventions with their most commonly used names and not their formal titles (such as the TRIPS Agreement, the Berne Convention, the Paris Convention and the Patent Cooperation Treaty).

We hope that you find this guide valuable and we welcome your feedback.

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This is a general reference document and should not be relied upon as legal advice. The application and effect of any law or regulation upon a particular situation can vary depending upon the specific facts and circumstances, and so you should consult with a lawyer regarding the impact of any of these regimes in any particular instance.

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## ANGOLA



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### INTELLECTUAL PROPERTY FRAMEWORK

#### *Overview*

Intellectual property is a right protected by the Constitution of the Republic of Angola. The fundamental intellectual property framework in Angola is provided in 2 main acts: the Legal Regime for the Protection of Copyright and Related Rights and the Industrial Property Law.

### COMMERCIAL CONTRACT FRAMEWORK

#### *Overview*

Angolan law lays down a general principle of contractual freedom, which means that parties are mostly free to establish the terms and conditions to be observed by the contracts they enter into (exceptions are made to mandatory rules legally imposed which will depend on the specific contractual relationship) and are entitled to enter into contracts provided for in the law, but also into contracts that are not provided for in the law.

Angolan law does not establish a unitary act or set of rules applicable to all commercial contracts. Depending on the specific contractual relationship, commercial contracts may be subject to the provisions of the Civil Code, Commercial Code, Copyright and Related Rights Law, and the Industrial Property Law as well as other specific legislation.

The aforementioned set of rules changes according to the specific contract in question.

### COPYRIGHTS

#### *Nature of right*

Copyright covers original literary, scientific and artistic intellectual creations, or works. Registration is not required for the acquisition or maintenance of copyright rights; however, there are certain specific copyright-related acts subject to registration in order to be valid.

In Angola, copyright comprises economic and moral rights.

In the scope of economic rights, copyright owners have the exclusive right to use, enjoy and dispose of their work, or to authorize the use of the work, wholly or in part, by third parties.

Moral rights consist in the right to claim authorship of the work, as well as the right to ensure its genuineness and integrity.

## *Legal framework*

Copyrights are governed by Law No. 15/14 of July 31, which introduced the Legal Regime for the Protection of Copyright and Related Rights.

## *Duration of right*

As general rule, moral copyrights are unlimited in time and, therefore, are inalienable and imprescriptible. With respect to economic copyrights, copyright protection lasts for a term of 70 years, counted as of January 1 of the first year after the death of the author, as well as through the life of the author.

In the case of works in collaboration, copyright expires 70 years after the death of the last surviving author. As per collective works or works originally assigned to a corporate person, copyright expires 70 years from the date of the first licit publication or disclosure, except if the individuals who create it were identified in the version of the work available to the public.

For an anonymous work, or work that was legally published or disclosed without identifying the respective author, protection is for 70 years after publication or disclosure.

Please note that, with respect to applied arts and photographic works, economic copyrights protection lasts for a term of 45 years, counted as of January 1 of the first year after the death of the author.

Economic copyrights related to a broadcaster last up to 35th calendar year after the broadcast.

## *Ownership / licenses*

Moral rights are inalienable.

The copyright owner, as well as their successors or assignees, may authorize the use of the work by third parties or assign economic rights, wholly or partially.

Granting an authorization to third parties in order for them to divulge, publish, use or explore the work does not imply the transfer of copyright rights.

Authorization shall only be granted in writing, mandatorily including the parties involved, the title and type of the work, the rights concerned, the duration, place and price conditions.

Please note that the assigns are only effective against third parties when registered.

## *Remedies for infringement*

The copyright owner may request payment of compensation by the agent for damages and losses to repair the damage suffered as a result the infringement, as well as payment of expenses caused by that infringement, which may include legal expenses.

The amount of the compensation is determined in accordance with the civil liability regime provided for by the Angolan Civil Code, taking into account the amount of material and moral damage suffered by the copyright owner, as well as the profit obtained by the offender.

When it is proven that the infringing copies affect a right, the Court may order, ensuring that the penalty is proportionate to the seriousness of the offense and taking into account the legitimate interests of third parties, the destruction of those copies and their packaging or their elimination of trade channels by any other reasonable means, without compensation of any kind, in order to avoid any damage to the copyright owner.

## **MASK WORKS / TOPOGRAPHIES**

### *Nature of right*

Mask works and topographies are not separately protected under Angolan law. They may be protected under patent law or by way of confidentiality.

### *Legal framework*

Angolan has enacted no specific rules on protection of mask works or topographies. Although Angola is part of the WTO and has approved the TRIPS Agreement, it has not yet implemented any rules on mask works or topographies protection.

Semiconductor technology, generally, and topographies, in particular, may be protected under the traditional intellectual property rules applicable to all types of technology, particularly patent law and the rules on confidential information. Therefore, matters such as the duration of the relevant rights, ownership and remedies depend on the type of protection used in connection with each specific mask work or topography.

### *Duration of right*

Not applicable for this jurisdiction.

### *Ownership / licenses*

Not applicable for this jurisdiction.

### *Remedies for infringement*

Not applicable for this jurisdiction.

## **PATENTS**

### *Nature of right*



Patent rights cover new inventions, in all fields of technology, provided that they are new, involve an inventive step and are susceptible of industrial application.

An invention shall be considered new if it does not form part of the state of the art, which comprises everything, inside or outside the country, made available to the public by means of a written or oral description, by use, or in any other way, before the date of filing of the patent application.

An invention shall be considered involving an inventive step if it is not obvious to a person skilled in the art.

An invention shall be considered susceptible of industrial application if it can be made or used in any kind of industry, including agriculture, fishing and handicraft.

A national patent confers on its owner the exclusive right to exploit the patented invention in Angolan territory.

## *Legal framework*

Patents are governed by the following:

- Chapter II, the Industrial Property Law (Articles 2 to 14)
- Membership of the World Intellectual Property Organization (WIPO), approved by Resolution No. 9/84 of July 20
- Paris Convention for the Protection of Industrial Property – approved by Resolution No. 22/05 of August 19
- Cooperation Treaty patent (PCT) approved by Resolution No. 22/05 of August 19 and
- Membership of the World Trade Organization (WTO), hence the TRIPS Agreement (Accession November 23, 1996).

## *Duration of right*

Patent protection is granted up to a maximum period of 15 years from the date of filing of the patent application.

## *Ownership / licenses*

Patents can be transferred in writing, by means of public deed, whether or not for financial reward.

Patents may also be licensed in writing, wholly or partially, whether or not for financial reward, on an exclusive or non-exclusive basis.

Transfer of ownership and licenses shall be recorded in the Angolan Institute of Industrial Property to be effective against third parties.

## *Remedies for infringement*

Whenever there is violation of or justified fear that another party may cause serious and difficult-to-repair harm to an industrial property right, including patent rights, the court may, at request of the interested party, order the appropriate measures to prevent any imminent violation or to prohibit continuation of the violation.

Whoever illegally violates the industrial property rights of another person with intent or by negligence shall be obliged to pay a compensation to the injured party for damages resulting from the violation.

In determining the amount of compensation for losses and damages, the court shall take into account the profit obtained by the infringer and the resulting damages and lost profits suffered by the injured party. The costs borne out of protection of the right in question and the investigation and termination of the harmful conduct shall also be taken in consideration, as well as personal injury.

Infringement of the exclusive right granted by a patent may be also punishable as crime with imprisonment up to 6 months or a fine.

## TRADEMARKS

### *Nature of right*

A trademark is a sign that distinguishes a company's goods or services, from the goods and services provided by other companies. There are 3 types of trademarks, namely:

- Nominative: when constituted by letter(s) or word(s)
- Figurative: consisting of figures or images and
- Mixed: when it includes a combination of figures and words or letters in its constitution.

The registered trademark confers to the owner, the right to prevent third parties that do not have their consent from using in the course of trade any sign which is identical or similar to the trademark in relation to goods and /or services which are identical or similar to those for which the trademark is registered.

### *Legal framework*

Trademarks are governed by the following:

- Chapter II, the Industrial Property Law (Articles 29 to 40)
- Membership of the World Intellectual Property Organization (WIPO), approved by Resolution No. 9/84 of July 20
- Paris Convention for the Protection of Industrial Property – approved by Resolution No. 22/05 of August 19 and
- Membership of the World Trade Organization (WTO), hence the TRIPS Agreement (Accession November 23, 1996).



Angola is not a party to either the Madrid Agreement or the Madrid Protocol. As such, International Registrations (IRs) cannot be extended to Angola. Angola's accession to the Madrid Agreement and/or the Madrid Protocol is currently the subject of consultation, but the position is unlikely to change for a number of years to come.

## *Duration of right*

National trademark registrations remain valid for 10 years starting from the date of filing of the application and may be indefinitely renewed for equal periods.

## *Ownership / licenses*

Trademarks can be transferred in writing, wholly or partially, whether or not for financial reward. A transfer of the whole of the undertaking shall include the transfer of the trademark except where there is agreement to the contrary or circumstances clearly dictate otherwise.

Trademarks may also be licensed in writing, wholly or partially, whether or not for financial reward, on an exclusive or non-exclusive basis.

Transfer of ownership and licenses must be recorded in the Angolan Institute of Industrial Property to be effective against third parties.

## *Remedies for infringement*

Whenever there is violation of or justified fear that another party may cause serious and difficult-to-repair harm to an industrial property right, including trademarks, the court may, at request of the interested party, order appropriate measures to prevent any imminent violation or to prohibit continuation of the violation.

Whoever illegally violates the industrial property rights of another person with intent or by negligence shall be obliged to pay a compensation to the injured party for the damages resulting from the violation.

In determining the amount of compensation for losses and damages, the court shall take into account the profit obtained by the infringer and the resulting damages and lost profits suffered by the injured party. The costs borne out of protection of the right in question and the investigation and termination of the harmful conduct shall also be taken in consideration, as well as personal injury.

Trademark infringement is punishable as crime with imprisonment up to 3 months or a fine.

## **TRADE SECRETS**

### *Nature of right*

Trade secrets are not protected as property in Angola. However, the Angolan Industrial Property Law, in the chapter related to Crimes of Unfair Competition, characterizes as crimes certain conducts involving the unauthorized use of trade secrets. As a result, there is legal protection against the violation of trade secrets.

### *Legal framework*

Trade secrets are addressed in article 73 of the Angolan Industrial Property Law.

## *Duration of right*

Not applicable for this jurisdiction.

## *Ownership / licenses*

Not applicable for this jurisdiction.

## *Remedies for infringement*

Remedies available for infringement of trade secrets can include criminal remedies (imprisonment and monetary fine) and civil remedies (injunction to prevent the continuation of infringements and damages).

Trade secret violation is punishable with a fine, if a more serious sanction does not apply by applying the provisions of the penal code and Law No. 9/89 (Law on Crimes Against the Economy).

## **OTHER KEY IP RIGHTS**

### *Nature of right*

#### *Design*

Industrial design means any new arrangement or set of lines or colors that, for industrial or commercial purposes, can be applied to the ornamentation of a product by any manual, mechanical, chemical, simple or combined process.

The registered design confers to the owner the right to prevent third parties that do not have their consent from using it. The aforementioned use shall cover, in particular, the making, offering, putting on the market, importing, exporting or using of a product in which the design is incorporated or to which it is applied, or stocking such a product for those purposes.

### *Legal framework*

#### *Design*

Designs are governed by Chapter III of the Industrial Property Law (Articles 15 to 28).

### *Duration of right*

#### *Design*

Designs registrations remain valid for 5 years starting from the date of filing of the application and may be renewed for 2 consecutive times of 5 years each.

### *Ownership / licenses*

## Design

Designs may be licensed in writing, wholly or partially, whether or not for financial reward, on an exclusive or non-exclusive basis.

Transfer of ownership and licenses must be recorded in the Angolan Institute of Industrial Property to be effective against third parties.

## *Remedies for infringement*

### Design

Whenever there is violation of or justified fear that another party may cause serious and difficult-to-repair harm to an industrial property right, including designs, the court may, at request of the interested party, order appropriate measures to prevent any imminent violation or to prohibit continuation of the violation.

Whoever illegally violates the industrial property rights of another person with intent or by negligence shall be obliged to pay a compensation to the injured party for the damages resulting from the violation.

In determining the amount of compensation for losses and damages, the court shall take into account the profit obtained by the infringer and the resulting damages and lost profits suffered by the injured party. The costs borne out of protection of the right in question and the investigation and termination of the harmful conduct shall also be taken in consideration, as well as personal injury.

Infringement of the exclusive right granted by a registered design may be punishable with a fine.

## INTELLECTUAL PROPERTY IN EMPLOYMENT CONTEXT

### *Employees*

As a general rule, the copyright over a work made under a labor agreement or in compliance with functional obligations is determined by agreement between the parties. In case no agreement exists, it is presumed that the ownership over the work belongs to the respective intellectual creator. In cases where there is a service provision contract, the property rights over the work are transferred to the contractor or entity represented by it.

The right to patent shall belong to the inventor or their successors in title. Notwithstanding, if an invention was made during the performance of an employment contract in which inventive activity is provided for, the right to the patent belongs to the employer.

### *Consultants / contractors*

In principle, consultants and contractors will retain ownership of the intellectual property developed by them, unless otherwise agreed by the parties or provided for in the law.

## KEY COMMERCIAL CONTRACT CONSIDERATIONS

## *Registration of commercial agreements*

There are no general registration requirements for commercial contracts under Angolan law; however, certain exceptions may arise. Furthermore, Industrial Property Rights licenses are subject to registration within the Angolan Industrial Property Institute (IAPI) in order to be enforceable against third parties.

## *Recognized language of commercial agreements*

There are no general requirements under Angolan law that provide that contracts must be written in Portuguese. However, in certain cases – for instance, contracts with consumers – the Portuguese language is mandatory, and, if the contract is to be used in specific situations – for example, for purposes of evidence in court or used with public authorities – translation to Portuguese is required.

## *Country-specific issues for online content*

Electronic contracts are regulated under Presidential Decree No. 202/11 of July 22.

## *Enforceability of online/clickwrap/shrinkwrap terms*

Contracts may be concluded electronically, provided that it does not affect its validity or effectiveness due to the use of this medium. Please note that general contractual clauses requiring electronic conclusion of consumer contracts are prohibited.

The provider shall make available to the recipients, before the conclusion, unambiguous minimum information including (i) the contract conclusion process, (ii) whether or not the contract is stored by the service provider and accessibility by the recipient, (iii) the language or languages in which the contract may be concluded, (iv) the technical means which the provider makes available so that errors of introduction which may be contained in the order form may be identified and corrected, (v) the contractual terms and general clauses of the contract to be concluded, (vi) the codes of conduct subscribed and information on how to consult them electronically and (vii) the effective technical means which allows the recipient to identify and correct inserted errors.

## *Governing law*

The interpretation and enforceability of contracts is a matter of governing law. The choice of law by the parties is accepted as a general principle, except when otherwise provided for by law; please, however, note that, in certain cases, there are rules of mandatory application – for instance, in the scope of contracts concluded with consumers.

## **KEY COMMERCIAL CONTRACT TERMS**

### *Enforceability of warranty disclaimers*

This will depend on the specific warranty. Notwithstanding, the law may provide some restrictions on the enforceability of warranty disclaimers (eg, for reasons of consumer protection).

### *Enforceability of exclusions/limitations of liability indemnification*

As general rule, the enforceability of exclusions or limitation of liability is limited under Angolan law. According to civil law, limitation of liability or exclusion of liability concerns the grounds of liability itself and the damages and losses. The law is not absolutely clear when dealing with the matter; therefore, some hold the opinion that the law does not prevent clauses limiting or excluding liability for acts of mere negligence, while others suggest that all clauses of exclusion or limitation are completely null and void.

## *Indemnification*

Indemnification clauses in contracts are, in principle, enforceable, but may be subject to restrictions provided for in the law. It is relatively common to stipulate in commercial agreements that the indemnifying party will indemnify and hold harmless the other party against claims of third parties related to the subject matter of the agreement.

## *Electronic signatures*

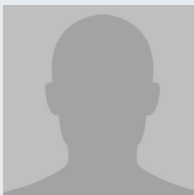
According to Angolan law, a qualified electronic signature is equivalent to an autographic signature in paper documents. An electronic document shall only be deemed to be signed for purposes of evidence where it meets the requirements set by the law on electronic signature and certification.

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