EVEN DAVID CAN DEFEAT GOLIATH

What Kenya's Landmark Copyright Judgment Means for Ugandan Fintech Innovators

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Background

When Lady Justice Mongare in ***Muoki & Beluga Limited v Safaricom PLC HCCOMM/E407/2022*** observed that 'even David can prevail against Goliath when the evidence is marshalled properly and the truth is on his side,' she was describing how the law protects small players from the power of larger ones.

In March 2021, a Kenyan software developer walked into a meeting with Safaricom, one of Africa's most powerful corporations and shared his idea. He had built a mobile sub-wallet called the M-Teen Account, designed to let parents monitor and control how their teenagers spent money on M-Pesa. He had documented it and registered it with the Kenya Copyright Board. Safaricom did not buy into the idea, saying it was too complicated. Then a few months later, he saw Safaricom testing an almost identical product, leading to a court dispute.

Safaricom argued that it did not infringe Peter Nthei Muoki's copyright because copyright protects only the specific literary expression of a work, not the underlying idea, functionality, or process behind a parent-child mobile money control system. The company maintained that it had independently conceived and begun developing similar M-PESA parental control features in 2020, prior to the Plaintiffs' 2021 proposal, relying in part on a proposal from Huawei outlining comparable functionalities such as spending limits and child account management. Safaricom further contended that such parent-child financial control features were already common in banking services, that its own product was neither revenue-generating nor substantially similar to the Plaintiffs' work, and that interactions between third-party innovators and M-PESA did not create any legal obligation on its part.

In May 2026, the Kenyan High Court ordered Safaricom to pay Peter Nthei Muoki and Beluga Limited KSh 1.4 billion (approximately USD 10.8 million) in damages, after finding that the telecom giant had unlawfully incorporated his concept into its own product, M-Pesa Go, without his consent or compensation. The court went further, imposing a compulsory ongoing royalty of 0.5% of Safaricom's gross M-Pesa revenue for as long as the feature remains in operation.

This case is one of the many cases that portray the dilemma of financial innovators in Uganda. To grow, they must share their ideas with powerful institutions, but the moment they do, they risk losing control over those ideas. This article draws from Kenya's landmark copyright judgment to discuss the role of law in protecting fintech innovators in Uganda, and the effectiveness of Uganda's intellectual property law.

Introduction

The World Intellectual Property Organization defines Intellectual property (IP) as creations of the mind, such as inventions, literary and artistic works, designs, and symbols, names and images used in commerce. There are different forms of Intellectual Property rights;

a) Copyrights: Copyright deals with the protection of original creative work of authorships, literary work, dramatic work, musical work, artistic work and computer software. Copyrights protect all works of human creativity besides ideas, facts and concepts. However, the expression of ideas is protected**.**

b) Patents: Patents deal with the protection of technological innovations and inventions and grant exclusive rights to the patent holder to use, make sell and distribute their invention for a specific period of time, usually 20 years. In order to be patentable, an invention has to be new (i.e., unavailable to the public), include an inventive step (i.e., be non-obvious to a person skilled in the art) and be ready for industrial application. Anything that does not constitute the solution to a technical problem and that is not industrially applicable is not patentable. Patents give a wider scope of protection than copyrights for technological inventions and innovations.

c) Utility Model: A utility model is an exclusive right granted by the government for an invention/innovation, which is either a product or process that that offers a new technical solution to a problem. They recognize minor improvements of existing products, which does not fulfill the patentability requirements. Unlike patents, utility models require compliance with less stringent requirements and offer shorter terms of protection. Protection for this right in Uganda is ten 10 years.

d) Trademarks: Trademark rights are related to the protection of brand names, logos and other identifiers. Trademarks protect signs, symbols, names, logos and other brand identifiers used to distinguish products and services in commerce. Trademark rights arise through use and registration, and may last indefinitely with renewal.

e) Trade secrets: Trade secrets protect confidential and proprietary information that provides a competitive edge like manufacturing processes, customer data, algorithms and source codes. Trade secrets focus on the information related to productive activity or to business organization. Trade secrets remain protected as long as secrecy is maintained and no formal registration is required. However, the TRIPS Agreement requires all WTO members to have laws criminalizing trade secret theft.

The Ugandan Intellectual Property Legal Framework

The history of Intellectual Property (IP) in Uganda dates back to pre-independence when Uganda inherited the British IP System. The first trademark was registered in 1913 under Britain's Patents, Designs and Trademarks Ordinance of 1912. Since then, there was growth in IP registrations and grants through various IP legislations. Uganda received these copyright laws through the reception clause in the 1920 Order in Council. These laws gained domestication wherein Uganda got the Copyright Act of 1956 that became the Copyright Act of 1964 but its content remained without any modifications and this survived until the new act of 2006.

Uganda also acceded to the Convention establishing the World Intellectual Property Organization (WIPO) on 18th July 1973 and is signatory to other IP-related Agreements, Treaties and Protocols. Uganda established the Uganda Registration Services Bureau (URSB) and enacted a number of IP-related laws. Whereas the Constitution of the Republic of Uganda provides for the right to own property, it does not explicitly provide for the protection of IP rights (IPRs). Nonetheless, a number of national and sectoral policies, strategies and plans address IP issues, which have laid the

foundations for innovation and creativity. These are; the Copyright and Neighboring Act No.6 of 2006 with an amendment bill passed in March 2026, the Trade Secrets and Protection Act No.2 of 2009, the Trademarks Act No. 17 of 2010 which repealed the Trademarks Act Cap 217, 1953, the Industrial Property Act No. 3 of 2014 which governs patents in the case of fintechs.

In the context of financial innovations, it is important to note that Uganda's Copyright and Neighbouring Rights Act was passed in 2006, three years before MTN Uganda launched mobile money. The entire fintech ecosystem that Ugandan founders are building today did not exist when that law was drafted. The question, then, is whether a law designed for a pre-smartphone, pre-digital money and pre-digital-lending in Uganda can adequately protect a founder in Kampala building an innovation similar to the M-Teen Account in 2026.

Why are Intellectual Property Rights Important to Fintech Innovators?

Intellectual propert rights serve as a shield and sword for fintech innovators, as portrayed by the recent Kenyan High Court decision in ***Muoki & Beluga Limited v Safaricom PLC HCCOMM/E407/2022***.

Registering a copyright even for an individual innovator with limited resources creates enforceable legal standing against even the most dominant corporate players. While copyright does not protect a general idea, it does protect the specific, detailed expression of that idea, meaning that a well-documented USSD flow, menu architecture, or system design can be the difference between losing an innovation to a larger competitor and receiving substantial compensation for its misappropriation. In this case, that compensation amounted to KShs 1.4 billion in damages plus ongoing royalties of 0.5% of future M-PESA revenues.

This case is a reminder that IP rights do not merely offer symbolic protection but can translate into real, lasting economic value. Beyond the financial remedy, the case highlights how IP registration incentivises rigorous documentation, deters corporate misappropriation, and ensures that innovators retain both the moral credit and commercial benefit of their work.

For fintech entrepreneurs operating in an environment where unsolicited pitches to large corporations are common, the lesson is clear: involve a lawyer from the start, protect your expression early, document everything, and understand that the law can level the playing field.

What does the Law Protect in Uganda?

Like Kenya's legal framework, Uganda's Copyright Act explicitly protects the expression of the idea, and not the idea itself. For an innovator building a product in Uganda, this means the following elements of a digital product may attract protection:

- The source code and its specific architecture, to the extent it is novel and uniquely expressed;
- The user interface design and visual layout;
- Proprietary databases, including compiled datasets of transactions and credit histories, provided the data is sufficiently original in its selection and arrangement;
- Technical documentation and system design papers, which, like Muoki's registered materials, constitute literary works;

What is not protected, and never will be, is the underlying concept. A mobile wallet idea, however brilliant, cannot be owned. Only the specific way that idea is built and expressed can be. This distinction is not very important.

Regulatory Disclosure and the Trade Secret Dilemma

Amid these developments, some innovators have opted against disclosing their work to regulators, citing concerns that proprietary ideas risk being misappropriated by the very institutions tasked with overseeing them. In Uganda, NITA-U requires detailed system documentation for software certification under Bank of Uganda licensing.

Founders must effectively describe, in writing, how their product works and submit that description to a government file accessible in theory under the Access to Information Act. To navigate this, innovators should apply for copyright before making any submissions. Registration creates a dated, formal record of ownership that pre-dates any regulatory disclosure. It is the equivalent of what Muoki did by registering his product with the Kenya Copyright Board before approaching Safaricom. That prior registration ultimately formed the evidentiary backbone of his case. Ugandan founders heading into regulatory processes without equivalent protection are taking an unnecessary risk. The Bank of Uganda's regulatory sandbox raises similar concerns. Participation requires live system disclosure to the regulator. The prudent course, once again, is registration before disclosure.

How should an innovator protect their work?

- See a lawyer as soon as you conceive the idea, not after the product is built. IP strategy should be baked into product development.
- Register copyright in your code, documentation, and databases before approaching any third party, whether a potential partner, a regulator, or an investor.
- Formalise all developer relationships with written software development agreements that include explicit IP assignment clauses.
- If your product integrates with third-party systems, apply separately for the rights in those integration layers. The question of who owns the code at the interface of two systems is not automatic.
- Treat your proprietary dataset as a distinct IP asset. If it is anonymised and original in its curation, it is copyrightable. Register it.

Conclusion

While Uganda's fintech ecosystem may have outpaced the development of dedicated legal frameworks, existing intellectual property doctrines apply with equal force to fintech products and their underlying expressions. The case of ***Muoki v. Safaricom*** should matter to Ugandan founders for a reason beyond its obvious encouragement. It demonstrates that copyright registration, meticulous documentation, and early legal counsel are not luxury expenses for well-funded startups. They are survival tools for any founder whose innovation might one day attract the attention of a larger player.

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