



# WIPO's Support for capacity building in investigating and prosecuting IP Crimes in Albania

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# Active contribution of WIPO in Albania

- a) **Publication of the Manual** on investigating and prosecuting of IP crimes in Albania (a derived work) **based on the original Model of WIPO. (November 2020)** with the support of the General Directorate of Intellectual Property (GDIP).

The list of national publications in IP field in Albania is very limited.

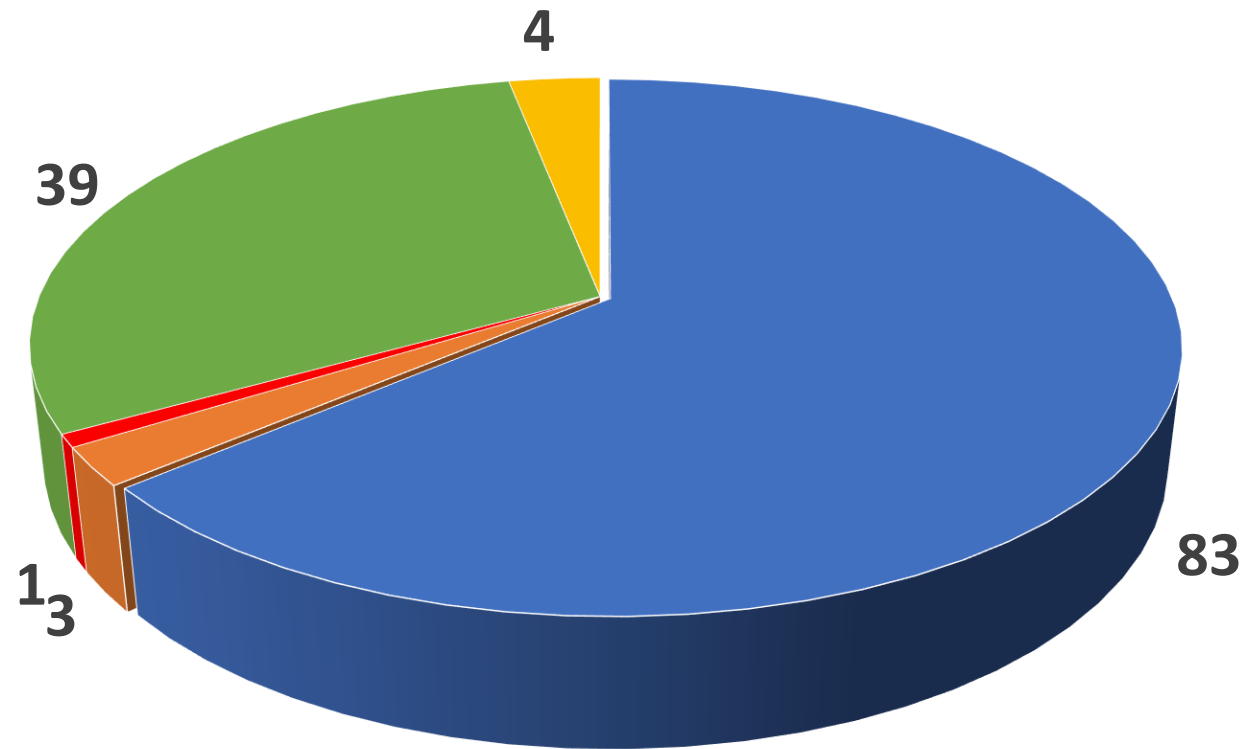
It is the *first time it is offered a publication on investigation phase* for prosecutors.

- a) **Expertise on the preparation of the training materials for training activities;**
- b) **Organization of the training activities with judges, prosecutors, professionals of the public agencies on the protection of the IP rights;**
- c) **Designing of the practical measures and publications (posters and leaflets)** to strengthen public and users awareness;
- d) **Offering the exchange of success stories on capacity building;** (designing of Web Pages of institutions (SoM) with data of court Decisions **WIPO lex-Project**).



# Some statistics on IP infringement (2016-2021)

Infringement of IP cases (2016-2021)



■ Trademark

■ Patent

■ Industrial design

■ Copyright

■ Administrative

# Albanian High Court

**Tirana Appeal  
Administrative Court**

**Tirana Appeal Court**

**Tirana  
Administrative  
District Court**

**Tirana  
Civil  
District  
Court**

**Tirana  
Criminal  
District Court**

**Quasi-Judicial**

**Authority**

**First level:**

**General**

**Directorate of  
Industrial  
Property (GDIP) /**

**Chamber on  
Objections  
Examination  
(ChOE) / Chamber  
on  
Repeal/Invalidatio  
n (ChR/I)**

**Second level:**

**Board of Appeals  
of GDIP**

**Administrative  
Jurisdiction**

Objections of  
decisions of  
Board of Appeal  
of GDIP in the  
form of:

- a) repeal;
- b) change;
- c) invalidity.

**Civil Jurisdiction**

- a) infringement of IP rights
- b) infringement of fair competition;
- c) compensation of damages;
- d) fulfillment of contractual obligations;
- e) contract dissolution;
- f) fraudulent publications;
- g) appeals on decisions of Board of Appeals of GDIP (art.94/dh of LIP).

**Criminal Jurisdiction**

- a) Criminal acts directly related to IP infringements provided by articles 148, 149, 149/a and 149/b of Albanian Criminal Code;
- b) Criminal acts indirectly related to IP infringements, such as those provided by articles 138 and 138/a, (theft and trafficking of artworks), article 147 (fraud on artworks), 176 (smuggling on artwork), 190 (forgery) and articles 284/d, 288, 288/a and 288/b provide for import or trade of counterfeit goods, etc.

# The Manual helps to:

- a) Raise the knowledge and information about the international and national legal framework;
- b) Develop skills in enforcement of the national network.

**It develops the thinking process, the legal reasoning and writing of the professionals.**

- a) Unify the models of the application forms and documents through the templates;
- b) Facilitates the application of good practices on jurisprudence and administrative bodies on protection of IP rights from violation;
- c) Combine the path of criminal proceeding with claims of civil parties and the administrative route that gives fines for punishing violations.
- d) evaluate the principle of the Protection of Public Interest and consumer rights, especially in relation to counterfeit medicine and food products.



# The Structure of the Manual

- **The structure** of the Albanian version of the Training Manual remained faithful to the model prepared by the WIPO for other countries.
- The manual is structured in **15 Chapters**, according to the WIPO model.
- The **customized element for Albania** gives the Albanian experience in each chapter relating to:
  - a) the obligation to punish the violations of a criminal, civil or administrative nature;
  - b) Infringement of IP related to goods and products, dealing with trademark infringement;
  - c) piracy of copyright, dealing with the originality of works, violations related to software, audio recordings, phonograms, etc.

# The Content of the Manual

The Manual includes:

- Ways of protecting IP rights at the international and national level **in order to:** (recognize IP rights, to determine the instruments and legal remedies, and to ensure the implementation of legal procedures;
- **The international legal framework** that provides protection against IP infringements, based mainly on **TRIPS**, as well as the national legal framework based on the **Albanian Criminal Code** and **Customs Code**, special laws and the by-laws;
- **Practical advice on the steps to be followed** in the **(a)** investigation phase and in the **(b)** trial phase, mainly by investigators, prosecutors and judges;
- Models of acts and other legal documents.



# Practicality of the Manual on Capacity Building

The Manual provides practical and didactic suggestions, list of possible questions that may be asked to the people involved in these activities facilitates and **offers advice on how to:**

- a) **identificate** the offender;
- b) Evaluate the **seriousness of a violation**;
- c) to ensure **reasonable doubt**;
- d) formulate **the charge**;
- e) Analyse **the burden of proof**;
- f) Examine the **cases of merging of charges**, for alternative criminal offenses;
- g) Evaluate the **reasonable and fair proportionality** between the **offense** and the **sentence**;
- h) **Check** the **nature of the damage**, and **calculate** the **extent of the damage caused**, (unfair competition in the market);
- i) **Design** **the Scheme of the circle of persons** involved in the offense and criminal activity, or the manner of their organization.



# The Manual and the capacity building

- **Trainings organized with the support of WIPO and collaboration of the Magistrates School & GDIP**
  - Judges and prosecutors; (online training format, hybrid or blended format and in person training);**
  - Multi-disciplinary trainings with representatives from judiciary, state police, professionals of the GDIP, Customs Office and Advocates of ABA.**



# Interested Groups of Professionals

- The purpose of preparing this Manual is directly related to **building up the capacities** of professional groups such as:
  - Economic crime structures in the state police;
  - economic crime structures at customs institutions;
  - prosecutors;
  - judges of civil, criminal and administrative courts;
  - employees of the General Directorate of Intellectual Property and those of the agency for protection of copyright;
  - lawyers;
  - bailiffs.



- During 2021 and 2022, several training sessions were organized by the School of Magistrates and the GDIP with the support of WIPO:
- **The Continuous Training program:**
  - **Multidisciplinary trainings;**
  - **Monoprofessional training** with judges and prosecutors;
- Preparation of the **new Curricula** of the Intellectual Property Course **Initial Training Program** in the SoM.
- Combination of **Knowledge** (*Orientation training*) and **Raising of capacities** (*Technical training*).
- **Focus on the TRIPS & the obligations for Albania (Article 61), etc.**

# Types of Training



# Raising skills & capacities of Judges and Prosecutors

Training of judges or prosecutors is focused on the following issues:

- **Analyses on the kind of actions that cause the IP right violations.**
- **Investigating the number of persons** who have participated in the criminal activity and the possibility of involvement of **organized crime groups**.
- Evaluate the **concrete or potential** losses or damage caused.
- **Checking** whether the **actions are related to human health or public security matters**.
- **Evaluate the impact of the violation on the market.** (Consider the type **and** size of the market in which the goods/services were traded).

# Raising skills & capacities on the treatment of the Burden of Proof (delicate issue)

In cases involving trademark or copyright infringement, elements related to the provability of the infringement must be considered:

- The identification of the right holder, the author and the offender/violator of the IP rights;
- Any precautionary measures taken to secure and preserve the evidence;
- Cross-border elements of the case;
- Detrimental impact to human health or public security matters of the violation;
- Whether the violation caused or could have caused injury.

# Action in Counterfeiting and Piracy Cases

## The measures in cases related to counterfeit or pirated goods

- The confiscation;
- The interaction of customs authorities with the judiciary;
- Coordination of work with the economic crime police, etc.;
- The issuance of an order for the destruction or destruction of these goods is in itself a legal remedy that protects the interest of the right holder from unfair competition.

## Jurisdiction in cross-border matters

- The organized crime appears more sophisticated;
- Association with the criminal offense of money laundering;
- Mutual assistance and cooperation in these cases is one of the key success factors;
- The handbook provides practical advice on the steps to be taken by the prosecutor and the judge in cases of cross-border organized crime in the area of Intellectual Property.

**“Education is not learning of many facts, but the training of the mind to think”.**

***Albert Einstein***

**Knowledge** combined with **Thinking** and **Reasoning** does help to **Raise the Skills** of the Professionals.

***The WIPO Manual offers this.***



***THANK YOU!***



# THE WIPO ARABIC CASEBOOK ON THE ENFORCEMENT OF INTELLECTUAL PROPERTY RIGHTS



*Dr. Bassem Awad*

*Former Judge, Courts of Appeal of Egypt*

*Professor, Faculty of Law, University of Western  
Ontario, Canada*

*WIPO Advisory Committee on Enforcement – Fifteen Session*

*Geneva, Aug 31 – Sep 2, 2022*

# OUTLINE

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I- Innovation in the Arab region

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II- Enforcement of IP rights in the Arab region

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III- IP Adjudication in the Arab region

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IV- WIPO Arabic Casebook on the enforcement of IP rights

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V- Common challenges during the project

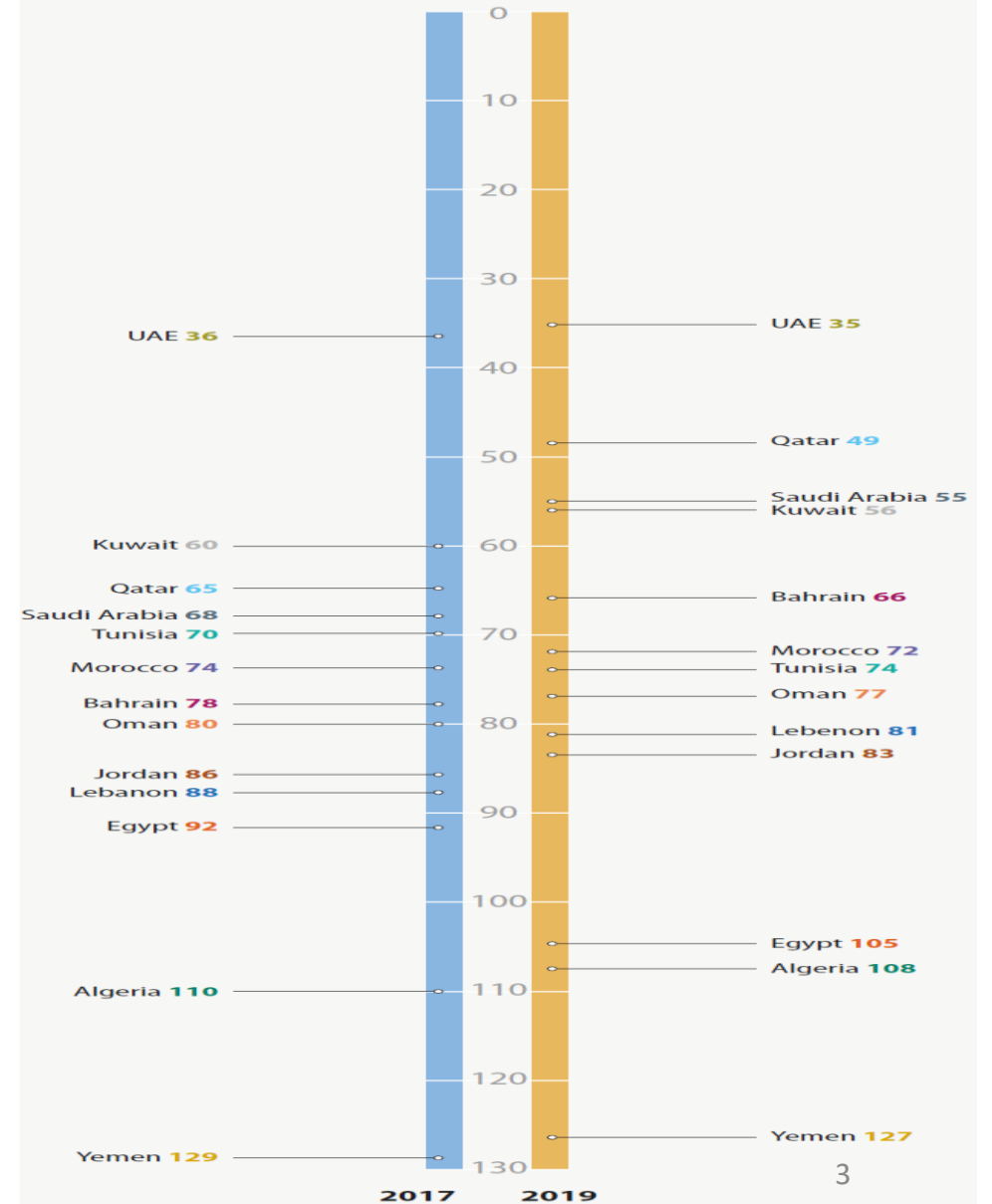
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VI- The WIPO Arabic Casebook in Action

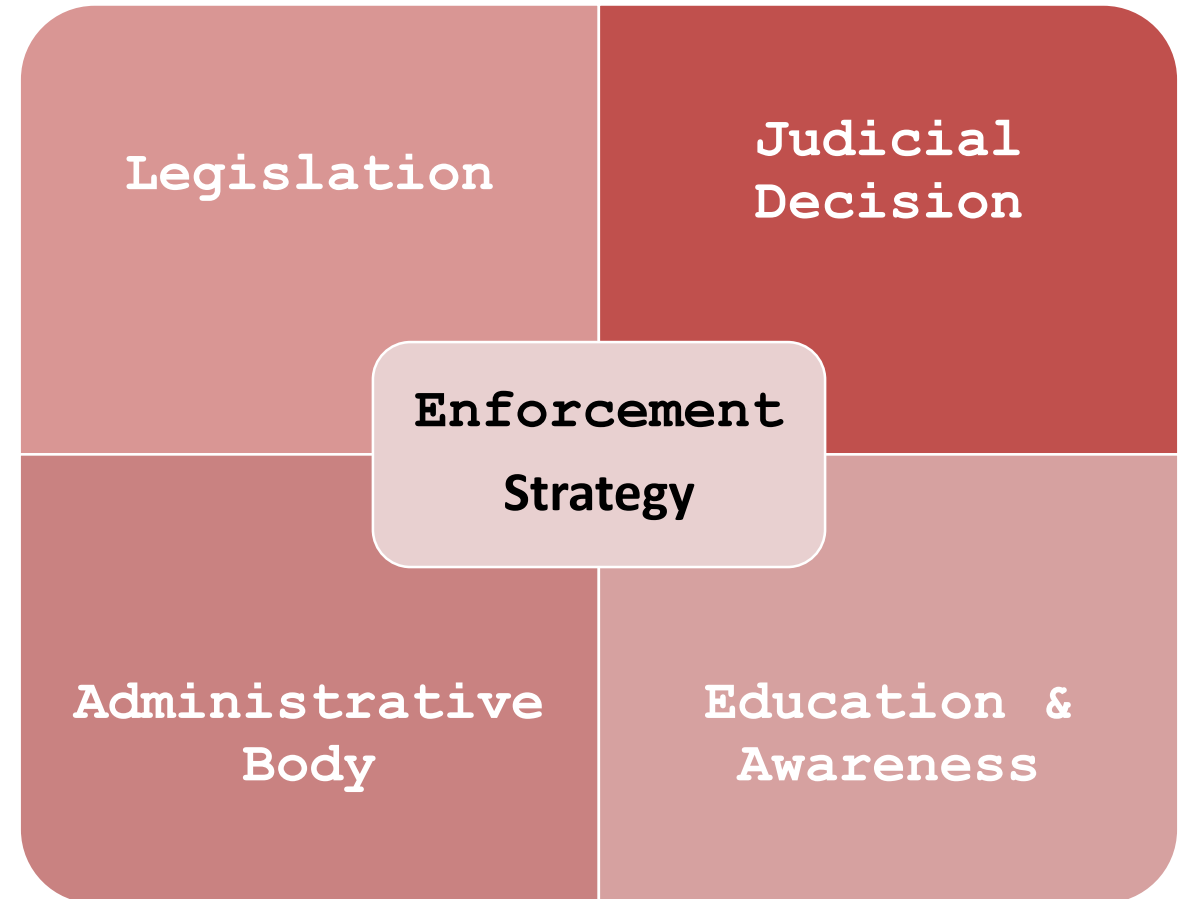
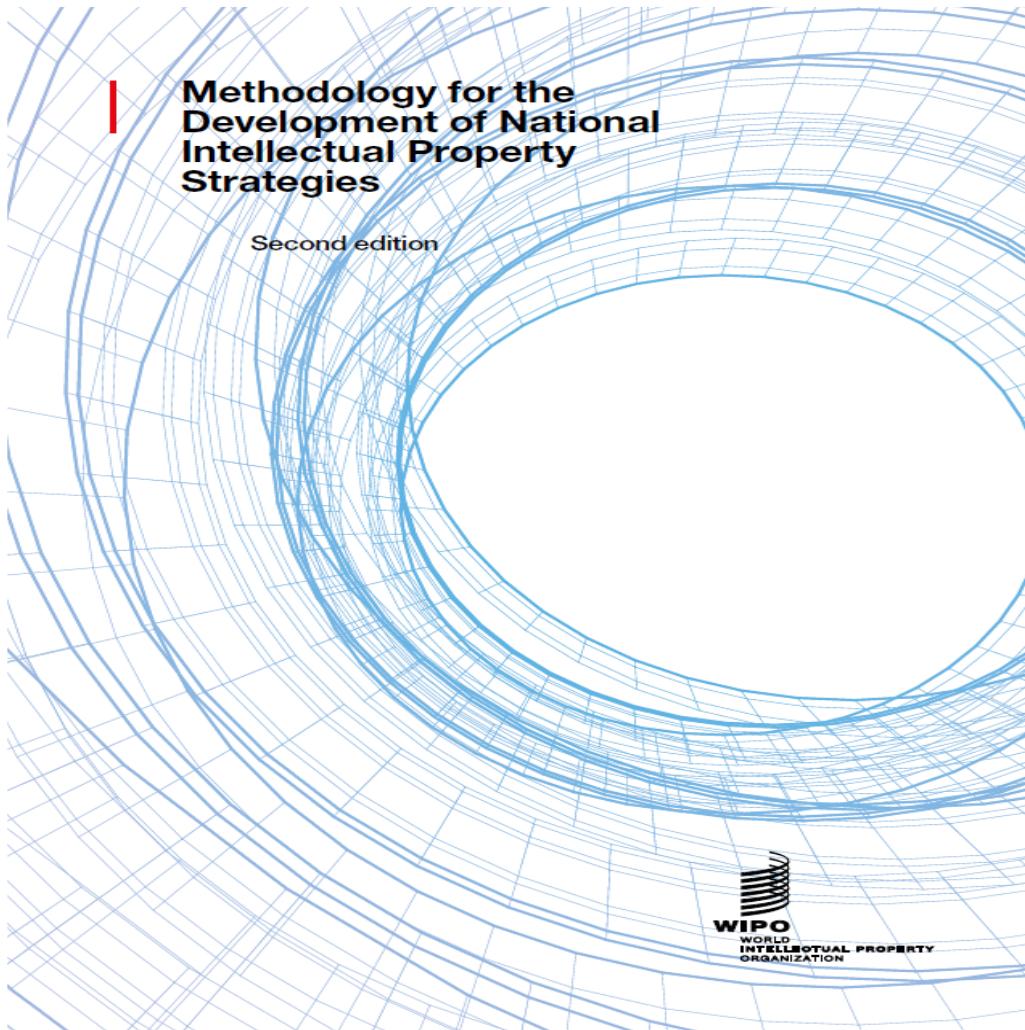
# I- INNOVATION IN THE ARAB REGION



Global Innovation Index rankings of the Arab States, 2017 and 2019



# II- ENFORCEMENT OF IP RIGHTS IN THE ARAB REGION



# III- IP ADJUDICATION IN THE ARAB REGION

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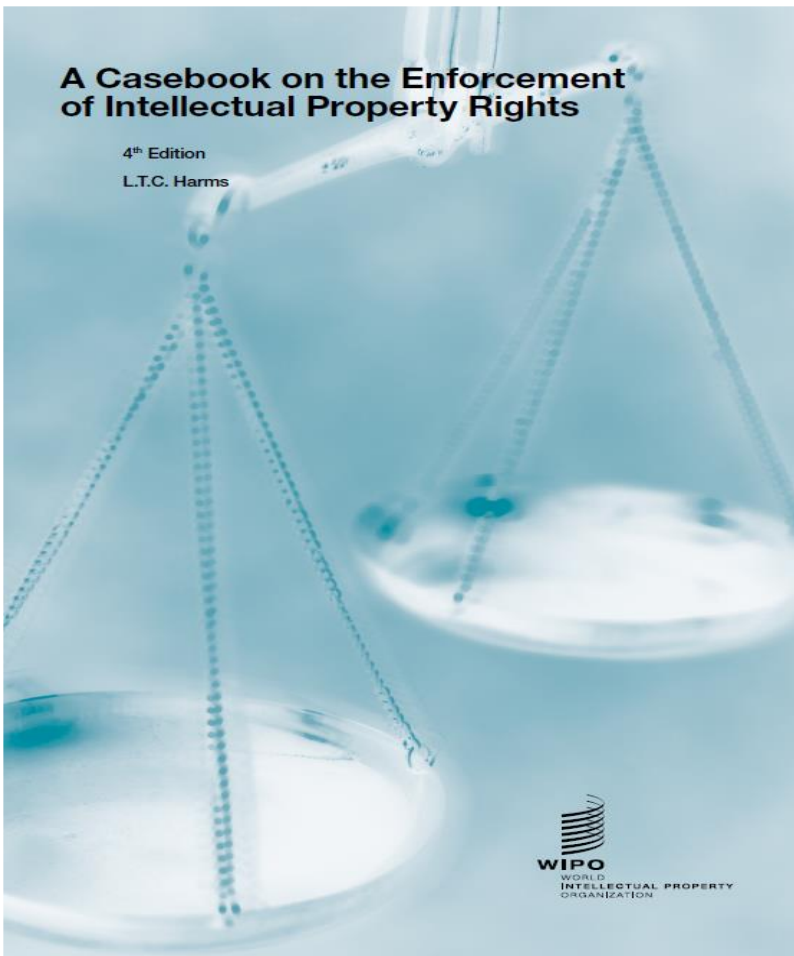
❑ **General Rule (TRIPS 41):** enforcement procedures must be such as to permit effective action against any act of infringement of intellectual property rights (IPRs). In addition, the remedies available must be expeditious in order to prevent infringements and must constitute a deterrent to further infringements.

❑ **Domestic Challenges:**

- 1) Reform of IP Laws and regulations
- 2) Absence of specialized judges and courts
- 3) Lack of Arabic-language resources addressing court decisions from the Arab region



# IV. WIPO ARABIC CASEBOOK ON THE ENFORCEMENT OF IP RIGHTS



<https://www.wipo.int/publications/en/details.jsp?id=4363&plang=EN>



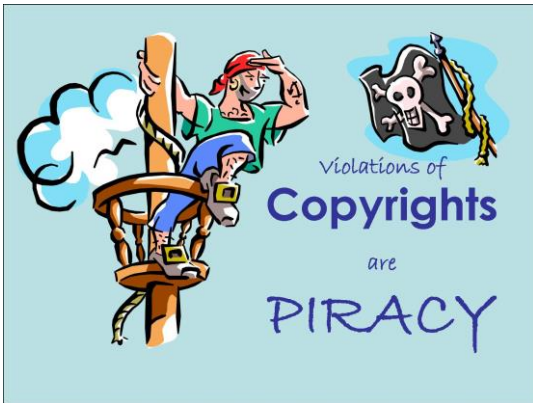
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<https://www.wipo.int/publications/en/details.jsp?id=356&plang=EN>

# SCOPE AND STRUCTURE OF THE CASEBOOK

- **Scope:** civil and criminal enforcement of trademarks and copyright.



## Structure – four chapters

I- General introduction of the **various forms of IPRs** and **common types of IP disputes**

II- Infringement of **copyright** and **related rights**

III- Infringement of **trademarks** including the protection of well-known trademarks and unfair competition

IV- Main disputes in the field of **patents** and **industrial designs**



## V. COMMON CHALLENGES

- Publication of court decisions in the area of IP
- Most criminal IP enforcement cases do not reach the Supreme Court
- Collaboration with national authorities



# VI. THE WIPO ARABIC CASEBOOK IN ACTION

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- Published in February 2020
- Policy and Legislative Assistance
- Capacity-building activities





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Thank you for your attention

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