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IP AFRICA NEWS

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SENEGAL



On the 5th of September 2023, the Republic of Senegal officially became a party to the Geneva Act of the Lisbon Agreement on Appellations of Origin and Geographical Indications (Geneva Act). This accession was formalized when Senegal deposited its instrument of accession with the Director General of the World Intellectual Property Organization.

As a result of this accession, the Geneva Act now extends its protection to 20 Contracting Parties, encompassing as many as 57 countries, while the Lisbon System, in total, covers 72 countries. Senegal's accession to the Geneva Act will facilitate an expedited and straightforward process for producers and other interested parties in Senegal to attain international protection for the unique designations of their origin-based products.

MADRID PROTOCOL FEES REVISED

Pursuant to the provisions of the Common Regulations under the Madrid Agreement and Protocol Concerning the International Registration of Marks, the Director General of the World Intellectual Property Organization on the 12th of September 2023 announced the revised individual fees applicable where the European Union is designated in an international application or in an application for renewal of international registration or is a subject of subsequent designation.

REVISED MADRID PROTOCOL TO ENTER INTO FORCE SOON

During its fifty-seventh (25th ordinary) session, the Madrid Union Assembly approved amendments to Rules 17, 18, 32, and 40 of the Regulations under the

Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks (referred to as "the Regulations" and "the Protocol"). These amendments are scheduled to take effect on November 1, 2023. The Madrid Union Assembly has also approved modifications to Rules 21, 23bis, and 32 of the Regulations, which are slated to become effective on November 1, 2024.

NIGERIA

NEW BILL TO REGULATE SOCIAL-MEDIA



The National Broadcasting Commission (NBC) has confirmed that it has presented a proposed bill for the regulation of social media to the National Assembly. This legislation aims to repeal and replace the National Broadcasting Commission (NBC) Act, CAP L11, Laws of the Federation of Nigeria 2004.

During a meeting at the NBC's headquarters with the Minister of Information and National Orientation, Mohammed Idris, the Director-General of the NBC, Balarabe Ilalah, referred to social media as a challenging issue and stressed the necessity for this bill.

He clarified that the current legal framework lacks the provisions to grant the NBC the mandate to supervise and control social media platforms. He noted that the proposed bill, aimed at repealing and amending the National Broadcasting Commission (NBC) Act, has been introduced for the first time in the National Assembly.

SOUTH AFRICA

GENERIC MARKS CAN STILL ENJOY PROTECTION:



In a recent South African case of, *Fuel Trailers (Pty) Limited t/a Trailers & Tankers ("Trailers & Tankers") v. St Logistics (Pty) Limited t/a Jikelele Tankers & Trailers ("Jikelele")*, the court's decision introduces a dynamic viewpoint in the treatment of generic trademarks.

In this case, the parties initiated their business relationship after their first meeting in September 2017. In March 2020, they entered into a Distribution Agreement where the respondent became the exclusive distributor and agreed not to use the applicant's trademarks after termination.

The applicant alleged that the respondent breached their agreement, leading to

unfair competition and passing-off claims. The agreements that governed their relationship had already terminated. During their business association, the respondent modified the applicant's logo by replacing the lion's head with an orange trailer design, which was developed with the applicant's consent. This new logo was used across various marketing materials and became the identifying mark for both the applicant and the respondent.

The respondent, however, claimed ownership of the modified design, asserting that it was sponsored and created by one of its directors/members. They contested that the applicant was not responsible for introducing them to the Kwa-Zulu Natal client base and stated they had their own clients before the partnership. The respondent argued that there was no evidence of competition between them and the applicant, as they sourced their products from a different manufacturer.

Regarding the use of a similar get-up to the applicant's, including the orange color, trailer design, and "Trailers & Tankers" wording, both parties acknowledged the similarities. However, the respondent argued that the term 'Trailers & Tankers' was generic and not intended to confuse the public, and they differentiated their logo with the addition of the word 'Jikelele.'

The court ruled that when assessed in isolation, generic terms such as "TRAILER" and "TANKER" may be considered descriptive and, therefore, do not qualify for protection under trademark laws. However, the court acknowledged that when all elements were considered together, including the design of the orange trailer logo, the identical font used for the words "TRAILER" and "TANKER," the format and positioning of the orange trailer logo, the use of identical colors (orange, blue, and white), and the overall impression when comparing the logos side by side, generic marks can indeed enjoy protection against passing-off.



VS



2023 AFRICA CREATIVE MARKET: SAFEGUARDING IPRS & HARNESSING TECH:

The stage is set for the yearly Africa Creative Market (ACM) designed as a catalyst for growth in the creative economy. The event is set to hold from November 2-7 at 21st Century Technologies and Glover Memorial Hall Lagos respectively with a focus on safeguarding intellectual property rights and harnessing the power of technology.

The 2023 ACM is being held in partnership with a host of local, regional, and international agencies and businesses including Paramount Africa and the National Information Technology Development Agency (NITDA).

KEY CONTACTS

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