

An Assessment Of Concurrent Jurisdiction And Claim Of Ownership Of Trademarks Under OAPI Legislation

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Abstract—Trademarks are economic tools that aid businesses to communicate with their customers and capture a vast section of the population. Trademarks are only useful when used efficiently in the course of trade, meaning the higher the reputation of the mark, the more consumers want to associate themselves to the products or services the mark is affixed upon. This study examines the criteria to own a trademark and how ownership claims are handled between the African Organisation of Intellectual property as known by its French acronym OAPI and the competent domestic courts found at the level of Member States which

has become a breathing ground for confusion in the resolution of disputes. Due to both bodies having concurrent jurisdiction in dispute resolution, the cost

has become unbearable on trademark owners or beneficiaries of an exclusive license of exploitation, coupled with inconsistency in judgements from the two structures. The article highlights some key improvements expanding trademark subject matter and provides information on how the two institutions cited above handle matters of jurisdiction based on case law. The article also brings to the limelight how the OAPI administrative litigation bodies can collaborate with the competent domestic courts to arrive at clear and concise decisions. In conclusion the paper provides some recommendations on bridging the gap between both jurisdictions in order to attain the objectives of all parties involved.

Keywords—*Concurrent Jurisdiction, Trademarks, Ownership, Registration and Use, Litigation.*

Introduction

Within the OAPI sub-region in order to claim ownership of any trademark one must be in possession of a registration certificate filed with the African Intellectual Property Organisation after fulfilling all the criteria of the Bangui Agreement in its Annex III. Trademarks maybe owned and claimed by either

natural persons or corporate bodies using the said mark in the course of trade. It is not an obligation for all products or services to have or make use of any trademark since their use is optional, (Andrew, 2020) however some states may make it a requirement for certain products to carry a sign identifying their source and manufacturers (Margaret Chon, 2017). OAPI is an intergovernmental Organisation made up of 17 states mostly of French expression, who can together with the desire to promote and efficient contribution of intellectual property for the development of all states involved by promoting technological innovation, technology transfer and dissemination and by promoting creativity. All this can only be most effective because of the uniform protection of intellectual property rights the Organiastion issues on the territories (preamble of Revised Bangui Agreement, 2015 at Bamako). OAPI serves as a unique industrial property office for all 17 member states and is charged with the issuance of IP registration certificates as seen in (article 3 of the Bangui Agreement of 2015. The Agreement a separate preamble different from the 10 Annexes dealing with a specific industrial intellectual property right and the Annex regulating the use of trademarks is non-other than Annex III. The conflict in the resolution of trademark disputes mostly centers around the fact that; the Organsition has an administrative litigation body headed by the Director-General and a commission of appeal who share concurrent jurisdiction with the competent domestic courts of member states (article 4 of the Revised Bangui Agreement 2015). A lot of confusion has rendered some mark owners reluctant to trust both structures since the is no collaboration on who has jurisdiction and when, the judges are mostly incapable to use right provisions of OAPI legislation to ascertain why the courts have jurisdiction due to no training and knowledge on IP subject matter, coupled with the fact that; the proceedings before the Administrative bodies of the Organisation is lengthy and not cost efficient for trademark owners. The question that begs for an answer here is what body has a clear and most efficient jurisdiction in the resolution of trademark disputes? one might also be tempted to ask based on the available cases if the is any utility to the administrative litigation bodies at the Organisation in

the resolution of intellectual property disputes? to have any answers to above questions it is critical for one to look thoroughly into the provisions of Annex III and the cases from the competent courts on the matter with the objective of ascertaining which jurisdiction is best suited for ownership claims of trademark rights.

An Overview of Signs Recognised as Trademarks under OAPI legislation.

Before the revision of the Bangui Agreement in Bamako, Mali in 2015, some categories of signs had no protection within any OAPI territory since the Bangui Agreement of 1999 did not provide for the use or registration. Annex III in its article 2(1) defined a trademark as any visible or audible sign used or intended to be used and capable of distinguishing the goods or services of any natural or legal person shall be considered a trademark or a service mark. It should be stated that before the coming into force of the amended Bangui Agreement of 2015 signed in Bamako, the African Intellectual Property Organization by its French acronym OAPI did not recognize the registration of any audible sign as a trademark and as a result of the 1999 Bangui Agreement Annex III, article 2(1) no protection could be conferred to any audible mark. The recognition of audible signs used or intended to be used and also capable of distinguishing goods and services as a trademark is a new and very significant innovation of the Bangui Agreement which strives to meet up with the ever-progressive protection most Intellectual property regimes offer their mark owners (Caroline Ncube, 2016). A trademark is any sign that individualizes the goods of a given enterprise and distinguishes them from the goods of its competitors (Thom Clark, 2019). Service marks help consumers to identify the variety of services offered on a national and even the international scale (Richard Posner, 2019). From the above definition it is evident that the Bangui community legislator was greatly inspired by the position of what trademarks are, under the Trips Agreement (1994). As regards service marks, their use has become a crucial business advantage for mark owners (Samta Mehra and Anika Narukla, 2011). Modern times consumers involved in trade are usually faced with a vast number of choices of goods of all kinds, but they also exist a vast number of services offered to consumers on a daily basis, from national to even international scale (Micheal Gryberg, 2008). Due the continuous increase in the number of commercial companies offering services to consumers such as insurance companies, car rentals, airlines, communication companies etc, there is a need to have service marks capable of distinguishing the services offered by one undertaking from the services of another (Sakulin W 2010). Service marks have the same character as trademarks since they also point to the origin-indicating and distinguishing function for services (Glynn S. Lunney, Jr, 2024). In order to have any rights attached to a mark the interested party must file an application of registration with the Organisation,

since it is only those who first file or persons having any rights of priority who enjoy ownership and usage. Denominations signs can either be words, combination of words, surnames in and of themselves or in a distinctive form, special, arbitrary or fanciful designations, letters, abbreviations and numerals. The Bangui Agreement of 1999 merely listed in Annex III the categories of signs that eligible for registration as marks. The 2015 Act introduces some amendments as it split the signs eligible for registration into five different categories. Denominative signs can be a single word as per article 2 (1) (a) of Annex III. Many individuals and even corporate bodies are usually uncertain if they can register a single word as a distinctive sign. A combination of words is usually better since it makes the mark owner more comfortable.

If a word is distinctive and has the capability of distinguishing goods or services of an undertaking from goods or services produced or manufactured by other undertakings then it may conveniently be eligible for registration under the Bangui Agreement Annex III. Denomination signs can also be numbers, letters and abbreviations as stated above. In recognizing whether a denominative sign can be eligible for registration as a mark they are some elements that must be considered in the choice of word, combination of words, numerals, letters and abbreviation used. The denominative sign in question must have a graphical character. What this means is that if a graphical stylized name is used then it must be used with the graphic. The extensive recognition of choice of words, fanciful, special, arbitrary designations of letters, abbreviation and numbers begs the question of which one will be more effective to use as a trademark capable of registration (Caroline Valle, 2020). A word trademark mostly protects the meaning of the word itself apart from any graphic design and puts the emphasis in the phonetic of the word (Case C-404/02, 2004).

Surnames having a distinctive character can also be recognized as marks under the meaning of article 3 of Annex III of the 2015 Act of the Bangui Agreement and as a result can be eligible for registration if all the requirements of article 3 (a) to (e) have been fulfilled. The ECJ's judgement in *Nichols PLC v Registrar of Trade Marks* addressed the distinctive character of common surnames as should be understood under EU Directives. The court confirmed that the assessment of the distinctive character of a surname must be carried out according to the specific circumstances of the case, and that (like all other types of marks) the presence or absence of distinctive character depends upon the perception of relevant consumers, having regard to the essential function of a trade mark identified in Article 2 of the Directive. It therefore appears that there may be circumstances in which a common surname as such lacks the necessary distinctive character for registration as a trade mark under the EU trademark system and this properly may be the attitude of the

courts of the OAPI sub-region in their interpretation of Annex III of the Bangui Agreement. The use of fanciful words to register goods or services is possible in the OAPI zone since article 2 (1) of Annex III of the RBA 2015, makes mention of fanciful designations of a mark that has a distinctive character. Fanciful marks are made-up words. They exist a couple of famous examples of fanciful marks such as; Kodak, for camera film and cameras. The distinctive character of a fanciful mark is based on the fact that, it is a creation from the applicants' imagination that cannot be identified no place else. Fanciful trademarks are highly desirable by companies since they easily serve as a badge origin. Their registration is hardly met with oppositions by trademark registrars. Also, arbitrary marks can also be registered with OAPI, since they are recognized as signs eligible for registration by the community legislator under of the Bangui Agreement of 2015. Arbitrary marks are words that have standard meanings, but are used to signify products that have nothing to do with the standard meaning. Some vivid examples of this type of arbitrary marks are 'Google' and 'Gap'. The word Gap definitely means a space or opening between two proximate things, but when it is applied to the sale of clothing, shoes and other accessories, it becomes arbitrary. Another very popular arbitrary mark used to identify goods and services and distinguishing them in the market place is 'Apple' used for computers and mobile phones (Robert P. Merges and Haiyan, 2018) . The mark apple itself is a fruit and has nothing to do with computers and mobile phones. Regarding Figurative trademarks, Article 2 (1) (b) of Annex III has listed the various signs considered to be figurative signs eligible for registration as marks to be; drawings, labels, seals, selvages, reliefs, holograms , logos, synthesized images; shapes, especially those of products or its packaging or those characteristic of the service, and arrangements, combinations and shades of colours. Figurative signs considered to be marks are very protective of the word in the scope of a graphic design . This means that if two words are phonetically different, if their appearance through their design is similar, there is a high risk of customer confusion (Jekaterina Kudriavceva, 2012).

A sign that consist of a single colour, or a combination of colours, is recognized as a mark under article 2 (1) (b) of the Bangui Agreement Annex III. The registrability of any colour or shades of colours after fulfilling the requirements of article 3 (a) to (e) of the Annex III is possible. Colour trademarks or distinctive colour signs recognized as marks in most jurisdictions are regarded as non-traditional. This is because they have always been a series of issues surrounding the registration of colour marks. The question of someone having control over the use of a particular colour is disturbing. Lastly, it is now a reality within the OAPI sub-region to use and register sound marks, audiovisual or a series of marks, insofar as they are distinctive in character and are used, in the course of trade/commerce.

Registration vs Use under Annex III of the Bangui Agreement on Trademarks and Service Marks

As discussed above, for any natural or legal person within the OAPI Zone to enjoy the rights attached to the registration of a trademark which consist of use or intention to use the mark on goods or in connection with goods in the course of trade under Annex III, that mark must have been registered with the Organization and entered in the Special register of Trademarks. All signs recognized capable of registration as marks in article 2 of Annex III of the Bangui Agreement, after registration become valuable tools to the mark owner who has title and can use or dispose of the mark as prescribed by OAPI legislation. Acquisition of trademark rights by any natural or juristic person under OAPI legislation is only possible after registration of the sign as trademark or when there has been a valid priority claim.

Article 4 of Annex III provides that; subject to the following provisions, ownership of a mark belongs to the person who first deposited it. A mark may be acquired in joint ownership. The Bangui legislator makes registration an obligatory criterion for the protection of trademarks and exclusive ownership of any visible or audible signs recognized under the Annex. Article 4 (2) of Annex III further provides that, no person may claim exclusive ownership of a mark by performing the acts specified in the provisions of Annex III unless he has filed it for registration in accordance with the conditions prescribed in article 9 of the same Annex. Under the 1999 Agreement, article 5 (5) of Annex III, emphasis was laid on the fact that use of mark could only be proved by written or printed matter or documents contemporaneous with the facts that they sought to establish. Under the 2015 Act of the Agreement registration is also done online, and the Organization is the receiving Office for international registration of marks under the Madrid system. The registration of a mark can even be filed by a holding company (WIPO, 1993). The legal effects of trademark registration are territorial in the sense that whenever a trademark is registered in one country, the protection accorded by that country does not cover other countries (Mihaela V. Carausan & Cristiana G. Budileanu, 2018). The advantage of using the Madrid system concerning the international registration of Marks is obvious as the international application may be followed by applications in each country where the trademark owner chooses to protect the mark in relation to the goods or products to be commercialized. The applicant is the trademark owner (Tanya Aplin and Jenifer Davis, 2017). So, in a trademark application, the applicant will most likely be the company that has been selling the relevant goods or services under the mark, or intends to do so in an intent-to-use application. If an individual has been or will be selling the goods/services, then the individual is the applicant. The person signing the application form should be considered the owner of the trademark by the organization, which may either be the natural or

the legal person. Failure to properly identify the applicant can jeopardize the applicant for the registration of a sign as a mark at the Organization. In situations where the applicant's names are misspelled, corrections can still be made. The whole idea about all correctable errors is that the proper entity was intended to be identified, but there were minor mistakes in the identification. If the application is accepted by the Organisation a certificate is issued to the applicant making him the owner of the mark, the mark maybe owned by two persons as well. It was opined in the court of first instance of Abidjan Plateau in the case of Société S.I.P.A. (Société S) c/ I.M.A that Société S.I.P.A deposited the trademark titled LEOPARD, to be used for the marketing of goods (match box) was well in their right to do so. Another enterprise, I.M.A, started making use of the mark THE LEOPARD for the sale and distribution of similar goods. The plaintiff seised the court of first instance Abidjan Plateau, on the grounds that article 7 (1) of Annex III, stipulates that; registration of a mark confers on its owner the exclusive right to use the mark, or a sign resembling it, in connection with the goods or services for which it has been registered and similar goods or services. The court ruled in that case that, any mark causing confusion with a registered mark must be denied protection and cancelled from the register of marks. From the above discussions, it is clear that registration of trademarks within the OAPI sub-region is highly encouraged since it is difficult to proof use of the mark before the courts. Trademark registration also accords the owners the right to easily exclude others from using the mark in the course of trade. An application filed at the organization was successful to this effect when, The Organization cancelled the mark ADERAN because it reproduced and added words to the mark ANDERAN causing confusion in the minds of the consuming public (Decision No. 091/OAPI/DG/DGA/DAJ/SAJ/ for the Cancellation of ADERAN registered in 70607). The mark ADERAN was deposited at the Organization on the 16th of March by Société AJANTA PHARMA LTD for products in class 5. Société NOVARTIS AG filed for an opposition of the mark on grounds that their mark ABDERAN was reproduced for products in the same class to be used for identical goods and services. Société NOVARTIS AG deposited their mark in December 2011 and were in active use of the mark ANDERAN, benefitting from all the rights conferred by registration. In 2015, the Organization finally accepted the request of Société NOVARTIS AG and cancelled the mark ADERAN since both the visual and the phonetic aspects of both marks were found to be the same.

Challenges surrounding Claim of Ownership of Trademarks before the OAPI and Competent Domestic Courts of Members States.

If any person is certain that his trademark has been infringed, he must be the one to police the protection of the rights violated. Under trademark law, the owner is filing an application to either the courts or

the organisation because he believes the infringement was primary, secondary or lastly that his/her mark was diluted. The only reason for any interested person(s) to file any application claiming ownership of trademark rest upon the provisions of article 16 (1) of Annex III of the Bangui Agreement which provides that; Where a mark has been filed by a person who at the time of filing knew, or should have known, that another person had a prior right to use the said mark, the other person may file a claim of ownership of the mark with the Organization, provided that he does so within three months following the publication of the record of the first filing. The above precises that the person must have known that the mark belonged to another or that the supposed owner had a prior right. The majority of the conflicts' centers around the very question of who owned the trademark first. However, the provisions article 47 Annex III is clearer since it includes marks acquired in infringement of a legal or contractual provision, because the prejudiced party may also claim ownership of the mark before the competent domestic court. If anyone knowingly files an application for trademark ownership with the organization it will be in bad faith therefore. If that is established by interested party, the next cause of action will be what jurisdiction should be seised to resolve the dispute, is it the OAPI or the competent domestic courts. Two prominent cases throw better light on the position of concurrent jurisdiction and claim of ownership in trademark disputes. Despite the successful outcome from the below mentioned cases, it is evident that the judges are not the most knowledgeable when it comes to ascertaining jurisdiction or interpreting OPAI legislation.

Selected Case Studies from OAPI and Competent Domestic Courts

Court of Appeal, Civil Division, Abidjan, Cote d'Ivoire, Judgment No. 182 du 02 March 2007

The matter of this litigation was the court of Appeal of Abidjan in Ivory Coast upheld the interpretation of "use in the course of trade by the court of First Instance. In that case, Mr. T.C did business in Ivory Coast and the sub-region under the name Les Etablissements C and got registered at the registry of Commerce since the 18th December 1988. He registered the mark SUNWATT at OAPI under the name of his company Les Etablissements C in 1994. In delivering the verdict of the court the judge emphasized that the exclusive rights of Société S.O. CORP should be respected since article 5 of Annex III of the Bangui Agreement of March 2, 1977 (today retaken in the 1999 and 2015 revisions) grants ownership of a mark to any person who first files the mark at the Organization. Société N. et WBF were prohibited from using the mark SUNWATT for the sale and distribution of batteries. This is because the goods in question were identical goods on which and in connection with which identical marks had been affixed or used. The courts ordered the cancellation of the trademark in the special register of marks of the Organization. A decision supported by a lot of

Intellectual property specialized since it sets an important precedent on the use of an identical mark belonging to another without authorisation or license agreement.

The Marine Magistrale Society SA v. Mr. Kamga Nenkem Jean Paul, Civil Judgement No. 382/com of December 23, 2013, High Court of Wouri

The dispute in this case straightens out the quarries on bad faith applications in trademark ownership claims provided in the provisions of article 16(1) and article 47 of the Revised Bangui Agreement Annex III. Marine Magistrale company abbreviated as 2M a public limited company with registered office in Douala Cameroon issued a summons to Mr. Kamga Nenkam, who was a former employee of latter company with a salary of 1,600,000 CFA francs since the year 2012, February 22nd. Mr Kamga went ahead to register a trademark used and owned by 2M company and got a registration trademark no. 66841 at the African intellectual property Organisation (OAPI). Interestingly it was the duty of Mr Kamga to file the said application with the Organisation, but instead of filing in the name of the company, he made the application instead in his own name and received Order no. 11/1812/OAPI/DGA/DPI/SSI/SSD in the year 2011. Having noticed this bad faith on the part of Mr Kamga, the company 2M SA raised a defense at the level of the competent domestic court insisting that the registration be set aside. The company relied on the provisions of article 47 of the 1999 Bangui Agreement Annex III. Another point raised by the 2M public limited company was the fact that; the money used to register the trademark with the Organisation was solely borne by the company and not Mr Kamga. Mr Kamga did not make any bring up any defences to counter the counsel of 2M Company but reminded the courts of the limitation period of six months for any interested person to file an application with the Organisation, he claimed that the company had sufficient time to file a claim of ownership but never did. The question of who owns a trademark was the center of the debate, the the rightful owner of a mark the person who uses the mark in the course of trade or the person who first files an application of registration with the organization as per article 5 paragraph 1 and 2. After long deliberations the High court of wouri passed judgement in favour of 2M public limited company since it was proven that Mr Kamga Knew that the company was the owner of the trademark, and that the said mark was used to sell and market goods.

The case of Arla Foods Amba V. DANA Holdings Limited, Civil Judgement Wouri High Court, 2012, 5th January.

The commercial company named Arla Foods Amba made a claim to be the owner of the trademark "DANO" in all territories of OAPI, having registered it on the 34th of March 1996 under no. 36147 in classes 5, 29 and 30. Around the year 2004 in the month of November, Dana Holdings Limited filed a similar sign

"DANA & DEVICE" as a trademark, under no. 50962 in class 5, 16, 29 and 30. Arla Foods Amba based on the augurment on the fact that; it was the first to file an application with the Organisation, stating that it had prior rights on the mark. They insisted on the courts canceling the sign DANA & DEVICE since it brings confusion in the minds of the average consumer based on resemblance and phonetic characteristics. In response, DANA Holdings Ltd through their lead counsel; insists that if its sign "DANA" was removed following Decision no. 00090/OAPI/DG/SCAJ it was the place of the opposing applicant requesting the cancellation of its trademark by the court to refer the matter to the Higher Commission of Appeal as provided by article 18 (4) of the revised Bangui Agreement, rather than filing a motion directly to the courts. Arla Foods Amba reminded DANA Holdings in its response that; the OAPI applicant enjoys two options in the event of any infringement to its prior rights, and that is either (1) bring an action before the Administrative opposition with the Organisation, (2) either seise the competent domestic court of the Member State. This means it is therefore not relevant to require that an applicant first files an application with the Organisation's Higher Commission of Appeals. This is because both institutions have concurrent jurisdiction in dispute resolution. DANA Holdings lost its case and was fined by the courts after cancellation of their mark.

Looking at both cases it is evident that, concurrent jurisdiction and claim of trademark ownership poses a major problem within the OAPI Sub-region. The reasons behind this could be seen from the fact that; the courts do not define nor explain the meaning of bad faith applications neither do they explain in their judgements which court has jurisdiction and why. It is for this these reasons that one may suggest the following

Conclusion

Proofing ownership of trademarks within the OAPI sub-region is becoming more complex due to the arrival of new technologies and rapid investment in commercial companies. The owner of a trademark is not necessarily the first one to file an application with the Organisation. It is suggested that; all owners of trademarks registered the mark with the Organisation because providing evidence of use in the cause of trade is a burdensome exercise and highly costly especially for small and medium size enterprises. Regarding which jurisdiction has authority, irrespective of both bodies sharing jurisdiction, it is advisable for any trademark owner to seise the competent domestic court rather than follow the OAPI administrative litigation process with can be circumvented by the courts at any time. It will go a long way if the Organisation organizes short programs to help the judges of Member States to have mastery on sensitive Intellectual property matters. Another solution might be an agreement between the two institutions maybe entered into stating that; when the parties' start their matter with the Organisation, the

procedure must run its course, all the appeal procedures must have been exhausted before any unsatisfied person may seize the competent domestic court.

References

Andrew Christie (2020), Intellectual Property, 15th Ed, London, Blackstone's Statutes Series.

Bangui Agreement of 2nd March 1977, creating the African Intellectual Property Organization (OAPI) as revised on the 24th February, 1999 as amended in Bamako 2015.

Caroline Valle (2020), "Word Mark v. Figurative Mark: Which One to Choose", United States of America, Safe blogs, p. 1.

Case C-404/02, Nichols Plc v Registrar of Trade Marks (2004).

Court of Appeal, Civil Division, Abidjan, Cote d'Ivoire, Judgment No. 182 du 02 March 2007.

Decision No. 091/OAPI/DG/DGA/DAJ/SAJ/ of 14 July 2012.

Glynn S. Lunney, Jr (2024), "Transforming Fair Use", New York Journal of Intellectual Property and Entertainment law, Vol. 14, No.1 pp. 169-242.

Jekaterina Kudriavceva (2012), "Issues surrounding the Registration of colour trademarks", United Kingdom, RGSL Research Papers, No. 9.

Judgement No. 11/2002 of Court of First Instance Abidjan Plateau, Ivory Coast, SOCIETE S.I.P.A v. I.M.A

Margaret Chon (2017), "Trademark Goodwill as a Public Good: Brands and Innovations in Corporate Social Responsibility", Seattle University Law School Digital Commons, Lewis & Clark Law Review, Vol. 2, No. 21, PP 277-316.

Marrakesh Agreement Establishing the World Trade Organization including, the Agreement on Trade-related Aspects of intellectual Property Rights (TRIPS) April 15th 1994

Michael Gryberg, (2008), "Trademark Litigation as Consumer Conflict", New York University Law Review, Vol. 83.

Milheala V. Carausan & Cristiana G. Budileanu, (2018), "Challenges in the Administrative Procedure of Trademark Registration at the World Intellectual Property Organization", Journal of Public Administration, Finance and Law, Issue 14, PP 152-164.

Order no.11/1812/OAPI/DGA/DPI/SSI/SSD of July 29th 2011.

Paulin Edou Edou (2008), "La Protection des Indications Geographiques et des Appellations D'origine en Afrique-Etat des Lieux et Perspectives", Found in Forum sur les Indications Geographiques et Les Appellations D'origine, OMPI, PP. 12-19.

Richard Posner, (2019), "Intellectual Property: The Law and Economics Approach", Journal of Economic Perspectives, Vol. 19, No.2

Robert P. Merges & Haiyan Song (2018), "Transnational Intellectual Property Law: Text and Cases, USA, Edward Elgar Publishing.

Sakulin W (2010), "Trademark Protection and Freedom of Expression: An Inquiry into the Conflict Between Trademarks Rights and Freedom of Expression under European", German and Dutch Law, University of Amsterdam Law Review, PP 88-157.

Samta Mehra and Anika Narukla, (2011), "Descriptive Trademarks: Easy to Market, Tough to Protect", New Delhi, Jurisdiction Report India, PP 1-10.

Tanya Aplin and Jennifer Davis (2017), Intellectual Property Law: Text, Cases and Materials, 3rd Ed, London, Oxford University press.

The case of Arla Foods Amba V. DANA Holdings Limited, Civil Judgement Wouri High Court, 2012, 5th January.

The Marine Magistrale Society SA v. Mr. Kamga Nenkem Jean Paul, Civil Judgement No. 382/com of December 23, 2013, High Court of Wouri.

Thom Clark (2020), "E.U. Case Law on Trademarks: including the Protection of Well-known Marks, and rulings on the Bad Faith Applications", IPKey European Union Intellectual Property Office (EUIPO), PP. 1-19.

WIPO (1993), *Introduction to Trademark Law & Practice, the basic Concepts a WIPO Training manual*, 2nd Ed, Geneva, WIPO Publications No. 653.