



TRADE MARK DUE DILIGENCE IN CAMEROON

Background

Company X, a well-known company from the EU with branch offices in West and East Africa, decided to have one of their trade marks registered in Cameroon and with the Organisation Africaine de la Propriété Intellectuelle (OAPI) in international class 3. The trade mark had already been in use for decades but was not registered in Cameroon or with OAPI. International class 3 covers cosmetics, toiletries, perfumes, cleaning products, and other related goods.

Action undertaken

Company X contacted a reputable IP firm in Cameroon, as the headquarters of OAPI is located in the country. The lead trade mark counsel advised that the registration would cover all 17 OAPI member states, and it would be advisable to conduct an availability search prior to filing the application. However, Company X chose not to heed this advice and decided to file the application directly without conducting the availability search.

The application was filed on 10 May 2023 and published in the official bulletin on 11 August 2023. On 7 November 2023, a well-known French company filed an opposition, citing their earlier registered trade marks. The opposition revealed that the trade mark applied for was confusingly similar to the French company's earlier registered trade marks. It was clear that both trade marks could not co-exist in the market, as they were confusingly similar and covered similar goods in international class 3, including cosmetics, toiletries, and cleaning products.

Company X, aware that they had very little chance of overcoming the opposition, filed for an extension of time to submit a reply while entering into negotiations with the French company to allow both trade marks to co-exist in the market, as they had already been co-existing, even though Company X's trade mark was not registered. Unfortunately, the negotiations failed.

Lesson learned

It is crucial to have your trade mark registered early enough. Whenever one intends to expand into a new market, it is advisable to conduct an availability search to determine whether there is an earlier registration or a confusingly similar trade mark that may hinder the smooth registration of the trade mark. In this case, Company X, which had started using the trade mark before the French company, could not claim ownership, as the earlier registration predates their application by almost two decades.

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