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The Inventa IP Review continues to highlight significant developments and emerging trends in the intellectual property (IP) landscape, with a focus on Europe and Africa.

Over the past year, we have witnessed dynamic shifts driven by technological advancements, regulatory updates, and evolving global challenges. As we move further into 2025, reflecting on the past year highlights transformative developments in technology and artificial intelligence, along with key topics such as high-profile patent disputes, trademark protection strategies, and the growing role of Artificial Intelligence (AI) in IP.

Featuring expert insights, opinion articles, and key industry updates, the Inventa IP Review 2024 offers a comprehensive overview of the evolving IP landscape. Our content is available on our website and shared regularly across social media.

Inventa



"Inventa IP Review" is an annual compilation of articles written by the Inventa team, spotlighting key IP topics from the previous year. Inventa is an Intellectual Property law firm, specializing in the protection and internationalization of trademarks, patents, industrial designs, copyright and domains, with a global network of offices and local representatives.

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PATENTS



IP RELATED



Red Brand Chicken: A cautionary tale of bad faith and the EUIPO-EU General Court dynamic

Diogo Antunes

European Union



On November 12, 2024, the European Union (EU) General Court's Fourth Board of Appeal issued its decision in case R 1165/2020-4. This case highlights the vital relationship between the [EU Intellectual Property Office \(EUIPO\)](#) and the judicial mechanisms of the EU, particularly the role of the General Court. The appeal structure ensures that decisions of the EUIPO, including those of its Boards of Appeal, are subject to judicial review by the General Court, providing a crucial layer of oversight. This mechanism guarantees that procedural and substantive standards are upheld, reinforcing legal certainty and fairness in the EU trademark system. By addressing disputes through this framework, the General Court ensures the balance of interests between trademark proprietors and applicants, safeguarding the integrity of the EU's intellectual property regime.

Overview of the case

On July 9, 2014, an application was filed before the EUIPO for a three-dimensional

trademark (EUTM) identified as "Red Brand Chicken", intended for the following goods and services:

- Class 29: Poultry; poultry, not live; frozen meat; meat, preserved.
- Class 40: Freezing of foods; freezing of foods.



Source: EUIPO

The trademark application also included a claim to the colours red, white, orange, and blue. The application was subsequently published on September 4, 2014, and the trademark was registered on March 24, 2016.

On February 15, 2018, the Polish company *Przedsiębiorstwo Drobiarskie* filed an application for a declaration of invalidity of

the registered EUTM. The grounds for invalidity were based on allegations of bad faith, as provided under Article 59(1)(b) of the EU Trade Mark Regulation (EUTMR). According to the applicant, the EUTM proprietors acted in bad faith when filing the application for registration.

Commercial relationship between the parties

The dispute stems from a prior commercial relationship between the parties that spanned the period from 2012 to 2014. During this collaboration, the parties developed and marketed injected chicken fillets for export markets.

While preliminary agreements, including a Service Agreement signed in 2013 and a non-signed draft agency agreement, outlined certain terms of their cooperation, the relationship lacked formalization as a joint venture. The contested trademark, 'Red Brand Chicken', was allegedly used in connection with products developed during the cooperation.

The applicant for invalidity claimed that the trademark was registered by the EUTM proprietors without proper authorisation and contrary to the spirit of the collaboration. The

applicant presented a range of evidence, including correspondence and contracts, to support its assertion that it had played a central role in the development of the products and the branding.

Decision of the Cancellation Division

On April 16, 2020, the Cancellation Division rendered its decision, declaring the contested EUTM invalid in its entirety. The key findings included:

- 1. Existence of bad faith:** The division concluded that the EUTM proprietors had acted in bad faith at the time of filing the application. The evidence demonstrated that the trademark was closely tied to the collaboration between the parties and that the proprietors' actions were contrary to the principles of good faith and fair dealing.
- 2. Role of the parties:** The division found that the cancellation applicant was the principal party in the relationship and had played a significant role in the development of the products and the branding. The EUTM proprietors were deemed to have acted primarily as agents within the scope of this cooperation.
- 3. Invalidity of the trademark:** Given the findings of bad faith, the Cancellation Division invalidated the EUTM in its entirety, including for goods and services for which no

direct evidence of bad faith was provided.

Decision of the Second Board of Appeal

On March 16, 2022, the Second Board of Appeal confirmed the decision of the Cancellation Division, upholding the invalidation of the contested EUTM on the grounds of bad faith.

The Board found sufficient evidence to support the cancellation applicant's claims regarding the proprietors' conduct at the time of the trademark filing.

However, following this decision, the EUTM proprietors brought the case before the EU's General Court, initiating proceedings on May 25, 2022. This appeal led to a significant reassessment of the case.

General Court decision in Case T-312/22

On May 25, 2022, the EUTM proprietors filed an action before the General Court of the European Union, contesting the Second Board of Appeal's decision of March 16, 2022. The case was registered as T-312/22.

The EUTM proprietors requested the annulment of the board's decision and argued that the finding of bad faith was unfounded. On September 6, 2023, the

General Court delivered its judgment, annulling the decision of the Second Board of Appeal. The court ruled that the evidence provided was insufficient to substantiate the claim of bad faith. The key findings included:

1. Lack of evidence for bad faith: The General Court held that the evidence submitted by the cancellation applicant and relied upon by the Second Board of Appeal did not adequately demonstrate that the EUTM proprietors acted in bad faith at the time of filing the trademark application.

2. Nature of the relationship: The court emphasised that neither the cancellation applicant nor the EUIPO had established the existence of an equal partnership or an unwritten joint venture between the parties that would impose a fiduciary duty on the EUTM proprietors. The absence of a signed agency or partnership agreement further weakened the case for bad faith.

3. Ownership and contributions: The court found that the cancellation applicant had not provided sufficient proof of its contributions to the creation or ownership of the contested trademark. It noted that the EUTM proprietors had acquired the relevant copyrights for logo design and had initiated the trademark registration independently.

4. Insufficient legal basis: The General Court criticised the Second Board of Appeal for

failing to identify a clear legal basis under EU or national law to substantiate its conclusions regarding the fiduciary obligations and mutual confidence between the parties.

The General Court annulled the Second Board of Appeal's decision and ordered that the contested EUTM was to remain valid, overturning the previous findings of invalidity.

Conclusion of the Fourth Board of Appeal

Following the General Court's binding judgment in T-312/22, the case was reassigned to the Fourth Board of Appeal. On November 12, 2024, the Fourth Board issued its decision in compliance with the court's findings.

The board annulled the Cancellation Division's decision and rejected the application for a declaration of invalidity, confirming the validity of the contested EUTM, "Red Brand Chicken," for all goods and services.

The Fourth Board's decision brought the dispute to a final resolution, as the General Court's judgment established that the evidence on record did not support allegations of bad faith against the EUTM proprietors.

INPI and IVV Sign a New Protocol to Protect Trademarks in the Wine Sector

João Pereira Cabral

Europe

Portugal

[ICLG.com](https://www.iclg.com)

To continue the collaborative relationship between the Portuguese National Institute of Industrial Property (INPI) and the Institute of Vine and Wine (IVV), a new protocol was signed on 29 October 2024.

This agreement aims to prevent trademark registrations that may cause conflict, and safeguard collective heritage by ensuring such terms remain tied to their rightful geographical origins and are not subject to exclusive appropriation.

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Protection of popular trademarks: A legal recourse

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Popular trademarks are those trademarks that are easily recognisable and are immediately attributed to a particular product or service in the minds of the consumers.

Popular trademarks bring about huge commercial value to their owners as they act as a marketing tool. Given its widespread reputation, it enjoys broader protection compared to an ordinary trademark regardless of whether or not they are registered, especially with reference to goods and services that are similar or identical to those that have gained such reputation. The notoriety of such products or services protects them from infringements. Examples of such trademarks include Coca-Cola, Google, Louis Vuitton, Victoria Secret, Apple, Nike and McDonalds.

In Nigeria, trademarks enjoy legal recognition and protection after it has been registered. Where a trademark is duly registered, the owner of such trademark can bring an action for trademark infringement to enforce his right.

However, popular or well-known trademarks are also recognisable whether or not they have been registered.

Legal evaluation of popular trademarks:

Nigeria is a contracting party to the Paris Convention for the Protection of Industrial Property 1883 as well as the Patent Law Treaty. Article 6bis of the Paris Convention reads: "The countries of the Union undertake, ex officio if their legislation so permits, or at the request of an interested party, to refuse or to cancel the registration, and to prohibit the use, of a trademark which constitutes a reproduction, an imitation, or a translation, liable to create confusion, of a trademark considered by the competent authority of the country of registration or use to be well known in that country as being already the trademark of a person entitled [...]"

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Tourism's influence on defining the 'relevant public' in EUTM oppositions

João Pereira Cabral

European Union



Likelihood of confusion is by far the most used ground for refusal in oppositions against European Union trademark (EUTM) applications.

It exists if there is a risk that the relevant public might believe that the goods or services in question come from the same undertaking or economically linked undertakings. Consequently, the 'relevant public' concept is a determinant for assessing the relative ground for refusal.

Since tourism is a very relevant industry in some EU countries, it can only be concluded that tourists are part of the public. The aim of this article is to reflect on to what extent tourism impacts the notion of relevant public.

The importance of the relevant public in the comparison of trademarks

The notion of relevant public is determinant in relation to several aspects of the

assessment of risk of confusion. One of them is in the comparison of the signs. The meaning or pronunciation of a word may vary depending on the relevant public.

If a trademark consists of a Portuguese word, its meaning will be understood by the Portuguese consumers but not by the French. If another trademark consisting of a different word but with the same meaning in Portuguese is applied for registration in the EU, it will be conceptually similar for the Portuguese consumers, who will understand the meaning of both trademarks, but not for the French consumers.

Similarly, the relevant public is also a decisive factor when assessing the inherent distinctiveness of word elements in a trademark. A word mark consisting of the words "Sumo de maçã" will be inherently distinctive for French consumers in relation to apple juices but will not for Portuguese consumers, as it means "apple juice".

Identifying the relevant consumer

Two factors shall be used to identify the relevant public. Firstly, it shall be taken into account the territory of the trademark registration used as grounds for the opposition. If the earlier registration is a national trademark, then the relevant public shall be the public that can be found in that country. Secondly, the goods and services that are identical or similar shall be used to define a stricter relevant public.

Likelihood of confusion is always assessed based on the perception of the consumers of the goods and services that have been found identical or similar. Depending on the goods or services, the relevant public is the general public or a professional/specialised public. Then, if it is concluded that a significant part of the relevant public may be confused regarding the origin of the goods, there will be likelihood of confusion.

”

Usually, it is considered that most used English words are understood by the Portuguese consumers of certain goods and services. But what about other languages?

As seen, the first step for defining the relevant public is to define the relevant

territory. If the earlier trademark is, for example, a Portuguese trademark, then the relevant territory is Portugal and, consequently, the relevant public is the one that can be found in Portugal.

This usually means that the relevant language will be the Portuguese. However, if Portugal has a high number of tourists in proportion to its population can the Portuguese be the only relevant language? Usually, it is considered that most used English words are understood by the Portuguese consumers of certain goods and services. But what about other languages? What about the inverse situation, of the tourists that do not understand Portuguese?

To address these questions, the second step shall be taken. The goods and services at issue shall be considered. If the services in question are related to tourism, such as temporary accommodation or international travelling, it should be concluded that most of the relevant public is not Portuguese nor understands Portuguese.

For tourism-related services, it shall be analysed which languages are used in a level that may be considered significant inside the relevant public already identified. Continuing

the example, if half of the tourists in Portugal were Spanish, then Spanish should be considered a relevant language when assessing the likelihood of confusion. If an EUTM application for tourism-related services covers a trademark that has a meaning in Spanish that is the same to that of an earlier Portuguese registration used as grounds for opposition, then it shall be concluded that they are conceptually similar, as the significant part of the relevant consumer, the Spanish tourists in Portugal, will understand the similar meaning of the trademarks.

However, the case will not be so clear if the percentage of the relevant consumer is not that high. Following the same example, but if instead of Spanish tourists we think of German tourists in Portugal, should 8% be considered a significant part of the relevant public and, therefore, possible conceptual similarities in German be considered, even if the earlier registration is Portuguese?

The inverse is also to be considered. If the percentage of Portuguese consumers of tourism related services in Portugal would be less than half, then it would be irrelevant that a certain word was not distinctive in Portuguese. In this case, if more than half of the relevant

public does not understand Portuguese and does not see the word as being descriptive, then a significant part of the relevant public will confuse the trademarks that bear that word (descriptive only in Portuguese).

The situation is also less clear when the goods and services are not tourism-related services. Regarding these goods and services, in Portugal, if they are aimed to the general public, the number of tourists that are part of the relevant public will most likely not be deemed significant against the Portuguese population.

Tourism is relevant for assessing the relevant public. This is clear when considering tourism related services. It may also be relevant in relation to goods and services targeting the general public if the number of tourists who may confuse the signs is significant.

It is not easy to set the limit above which a number of people becomes a significant part of the relevant public. However, it is clear that EU trademark practice has to take into account the tourists (and analogously the number of people who work and live abroad) to define the relevant public when assessing the risk of confusion between trademarks.

Seasonal products and genuine trademark use in the EU

Joana Fialho Pinho

European Union



Chocolate enthusiasts will note that certain specialty chocolates are not available during the summer, creating anticipation for their return after the 'silly season'. Meanwhile, summer often brings limited-edition products, such as those featuring tropical fruit flavours or refreshing combinations, introduced specifically for the season. Typical summer festivals also contribute to this wave of exclusive offerings. As the season shifts, some products and services exit the market while others return. This limited availability can pose significant challenges for EU trademark holders. Maintaining adequate use of trademarks of products and services associated with specific times of the year is crucial. Companies must carefully manage their trademarks to ensure that, despite limited market presence during certain periods, their registrations remain secure and enforceable.

Legal framework

Registered EU trademarks can risk becoming unenforceable or even vulnerable to non-use

cancellation if, within a period of five years following registration, the proprietor has not put the EU trademark to genuine use in the Union in connection with the goods or services in respect of which it is registered, or if such use has been suspended during an uninterrupted period of five years, without a proper reason (EUTMR, article 18).

CJEU case law and EUIPO guidelines

Genuine use of trademarks is not specifically defined by law, but Court of Justice of the European Union (CJEU) case law provides relevant interpretation. CJEU clarified that genuine use must fulfil the trademark's function of ensuring the origin of goods/services. Token use does not qualify. Factors to consider include economic necessity, market characteristics, and frequency of use. In this context, the European Union Intellectual Property Office (EUIPO) guidelines refer to relevant case law (Minimax, 2003, C-40/01), stating that genuine use requires actual use of the mark, not merely token use, and must align

with the essential function of a trademark—specifically, distinguishing the origin of products or services in the market. Furthermore, referencing the case *Laboratoire de la Mer* (2004, C-259/02), the guidelines emphasise that genuine use must be assessed on a case-by-case basis, considering various factors, and that there is no minimum threshold for determining genuine use. In this case-by-case context, factors such as place of use, the nature of the goods, market characteristics, and the scale and frequency of use are relevant.

Seasonal trademarks and extent of use

For trademarks of seasonal or periodical goods and services, the criteria of ‘extent of use’ is of particular concern. The EUIPO guidelines provide that “In this regard, it has to be evaluated whether, in view of the market situation in the particular industry or trade concerned, it can be deduced from the material submitted that the owner has seriously tried to acquire a commercial position in the relevant market.” The assessment of the extent of use considers several criteria, such as commercial volume (total sales under the trademark) and duration and frequency of use. There is an interdependence between these factors: a low commercial volume can be offset by frequent and extensive use, and vice versa. There is not a

de minimis rule, for example there is no requirement as to the number of relevant consumers.

Regarding the evidence to be presented, while direct evidence (eg invoices) is important, circumstantial evidence (eg catalogues) can also be considered, especially in markets with small commercial volumes, to clarify the overall assessment. Particularly relevant to the issue of seasonality, is that it is expressly recognised in the EUIPO guidelines, with reference to relevant case law, that there is no need for continuous use during the relevant five-year period. Use may be sufficient, even if it is not continuous, as long as it is authentic (*Deitech*, T-86/07).

”
(...) for seasonal or periodic products, maintaining a seasonal continuity of use is relevant. While there may not be use year-round, a seasonal pattern of use can align with the product’s inherent characteristics.

Also important is the acknowledgement that the relationship between the volume of sales under the trademark and the trademark owner total turnover may vary depending on the diversification of activities in the market (the proof of use examination does not assess the

holder's commercial strategy). Even if the products represent a minimal share of turnover, it may still be economically justifiable to market them. Special market conditions can be met, such as lower sales volumes in the initial product launch phase, but it is safeguarded that this cannot be eternalised.

Good practices for seasonal trademarks

In this context, for seasonal or periodic products, maintaining a seasonal continuity of use is relevant. While there may not be use year-round, a seasonal pattern of use can align with the product's inherent characteristics.

Accordingly, as far as seasonal goods and services are concerned, it is prudent to correctly contextualise the use of the trademark, to try to mitigate the vulnerability of the use being considered insufficient:

- Maintain the trademark communication (eg keeping the trademarked good/ service visible on the website, or social media);
- Indicate the periods of availability of the products or services, or the frequency of events;
- Identify the seasonal nature of the product (eg, chocolate pralines—not available in summer, to ensure quality).

It is also important to emphasise the

significance of correct trademark use and the maintenance of accurate documentation:

- Use the trademark as registered, for the identified goods or services
- Keep records of sales, correctly identifying the trademark on invoices
- Keep records of exports (use in exports from the EU is relevant—eg in off-season periods there may be relevant exports to other territories)
- Keep an archive of marketing materials, publications
- Keep contracts/distribution agreements to prove use of the trademark by an authorised third party. Register licence agreements.

EU trademark registration grants exclusive rights, and maintaining this monopoly may require proof of serious use. This assessment should be conducted on a case-by-case basis to reflect market realities.

While the use of trademarks for seasonal products or periodic events can be considered serious, it will always require thorough analysis, in particular considering the extent of use. Therefore, special care is needed both in the use of the trademark and in selecting evidence to demonstrate that use.

Nigeria: Trademark protection strategies for fintech startups

Queen Ajura Ugbeda

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Nigeria



Financial technology (fintech) encompasses many innovations, including mobile payment platforms, blockchain-based solutions, algorithmic trading systems, and peer-to-peer lending platforms, among others.

The protection of fintech innovations is critically dependent on a robust framework of intellectual property (IP) rights. These include patents, copyrights, trademarks, and trade secrets, all of which are instrumental in safeguarding unique technologies, business practices, and brand identities essential for progress.

While IP rights encompass a broad spectrum of protections, this article specifically focuses on trademark protection law in Nigeria and essential strategies fintech entrepreneurs must employ to secure trademark protection effectively.

By navigating the complexities of trademark law early on, startups can shield their

innovations, build consumer trust, and pave the way for sustained growth in this competitive arena.

Trademark in fintech

A trademark is a distinctive sign (such as a word, logo, or combination thereof) used to identify goods or services and distinguish them from competitors. Trademarks play a critical role in protecting brand names, logos, and other distinctive elements, helping companies differentiate their products and services and prevent brand dilution.

In the Fintech industry, securing success requires building a strong brand and achieving recognition, both of which heavily rely on the strategic registration of trademarks. [...]

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Provocative trademarks: balancing rights with morality in the EU

Joana Fialho Pinto

European Union



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Can sustainability, the circular economy, and intellectual property be reconciled?

Vítor Palmela Fidalgo



Europe

Portugal



Can sustainability, the circular economy, and intellectual property be reconciled?

In an era marked by overproduction and overconsumption, balancing trademark protection with resale or upcycling is crucial as we strive to reconcile sustainability goals with IP law.

More information  

Trademark protection in Ethiopia: A practical guide

Sofia Araújo

Africa

Ethiopia



Nestled in the Horn of Africa, Ethiopia is a landlocked country of rich history and cultural diversity that captivates with its vast landscapes and profound influence in the region. Sharing borders with Eritrea to the north, Djibouti and Somalia to the east, and Kenya to the south, Ethiopia's geographical position makes it a hub of regional connections.

Its western border with Sudan underscores its significance in East African geopolitics, while South Sudan lies to the southwest, further highlighting Ethiopia's pivotal role in shaping the dynamics of the continent.

Economic overview and market opportunities

With a population surpassing 120 million and its strategic location, Ethiopia offers a substantial consumer base and a wealth of opportunities across various sectors. Key economic areas such as agriculture, mineral resources, textiles, energy, and technology are particularly attractive to investors.

The evolving economic landscape, coupled with ambitious infrastructural developments such as the Grand Ethiopian Renaissance Dam and extensive road networks, positions the country as a hotspot for investment. Recent economic reforms and initiatives aimed at improving the business climate further bolster Ethiopia's appeal as an investment destination.

International treaties and protocols

Ethiopia has not signed several major IPR treaties, such as the Paris Convention for the Protection of Industrial Property, the World Intellectual Property Organization (WIPO) copyright treaty, the Berne Convention for Literary and Artistic Works, the Madrid System for the International Registration of Marks, and the Patent Cooperation Treaty. [...]

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Family matters: Claiming a series of trademarks in EUTM oppositions

João Pereira Cabral

European Union



There are several factors that may be considered when assessing the likelihood of confusion in an opposition proceeding before the European Union Intellectual Property Office (EUIPO). One of them is the existence of a family or series of marks. This article aims to shed some light on this factor which is possibly one of the least known and used by opponents. Several earlier marks displaying characteristics that allow them to be regarded as part of a single family or series, may be relevant in an opposition proceeding against a EUTM application, as it may create the possibility of association between them and the contested mark and, consequently, likelihood of confusion.

”

Not every opponent has a series of trademarks, nor all series of trademarks will comply with the above-mentioned requirements in relation to a specific EUTM application. However, the owners of those that do, have the right to claim them as grounds for opposition.

The three cumulative conditions

The Court of Justice of the European Union (CJEU) has defined three main cumulative requirements for a series of marks to be relevant when assessing the likelihood of confusion with the opposed trademark. In the case C-234/06 P (2007), the European Court of Justice (ECJ) confirmed the decision of the General Court (EGC) in the case T-194/03 (2006), which established that:

- First requirement: for a series of marks to exist it must be formed by at least three used trademarks;
- Second requirement: the opponent must provide evidence of use in relation to the individual marks that compose the series of marks (at least of three);
- Third requirement: not only the opposed trademark has to be similar to each trademark that forms the series. [...]

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Protecting trademarks in DRC

Inês Monteiro Alves & Diogo Antunes

Africa

DR Congo



The Democratic Republic of Congo is one of the largest countries in Africa in terms of land area and population. Despite challenges, it has significant potential for economic growth and development. Efforts to improve governance, invest in infrastructure, promote diversification, harness the country's natural resources more sustainably and update IP legislation could contribute to unlocking this potential and positioning DRC as one of Africa's leading economies.

DRC relies heavily on imports to meet its domestic consumption needs. Despite having abundant natural resources, the country faces challenges in developing its manufacturing and agricultural sectors to produce goods locally. As a result, DRC imports a wide range of products, including consumer goods, machinery, equipment, and food items, to meet the demands of its population.

Given that DRC depends mainly on imports, it is crucial for stakeholders to obtain IP registration in the country.

Legal framework for protecting trademarks

The legal system is primarily based on civil law, which was influenced by the Belgian legal system due to the country's colonial history. Apart from that, the country's legal system has also been influenced by international law and treaties, including those related to human rights and IP.

In terms of international agreements related to IP, DRC is only a member of the Paris Convention (since 1975) and the TRIPS Agreement (since 1997). The absence of membership to other international agreements related to IP contributes to IP laws in the country being outdated. DRC is not a member of the Madrid System or any regional agreement in Africa, such as the African Regional Intellectual Property Organization (ARIPO) or the African Organization of Intellectual Property. [...]

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How to file a trademark opposition in Nigeria

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A trademark stands as a vital pillar of intellectual property, safeguarding an owner's rights to their goods and services from unjust replication by third parties. Primarily, trademark laws aim to empower businesses by enabling them to register their trademarks, thereby granting exclusive usage rights to the proprietor, preventing others from utilising the same trademarks.

Along with other forms of IP rights, trademark protection is of utmost importance, especially as owners often find themselves in situations where safeguarding their rights against actual or potential infringement becomes necessary.

Trademark oppositions

One of the measures owners can use to protect their interests and rights against potential abuse or misuse is trademark oppositions. This refers to a well-defined administrative procedure in the trademark registry of Nigeria that exists to address such concerns, particularly regarding trademark

applications awaiting official registration by the Registry. In Nigeria, any holder of a trademark can initiate a trademark opposition if they foresee potential harm from the registration of a conflicting mark. This opposition must be lodged within two months of the publication of the application in the trademark journal. The entity filing the Notice of Opposition assumes the role of the opposer, whereas the entity attempting to register the contested mark is commonly termed the 'applicant'.

Filing a trademark opposition requires solid grounds or reasons. Below are common reasons for filing a trademark opposition:

1. **Similarity:** The trademark closely resembles or is identical to an already registered trademark.
2. **Deception or scandal:** The trademark includes deceptive or scandalous elements or designs. [...]

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Trademarks applications in bad faith

Joana Fialho Pinto

European Union

Important compromise on interpretation in the EU

In March 2024, the European Union Intellectual Property Offices that are part of the European Union Intellectual Property Network (EUIPN) published a Common Communication on Trademark Applications Made in Bad Faith, establishing yet another understanding aimed at increasing legal certainty and predictability of decisions.

Directive (EU) 2015/2436 of the European Parliament and of the Council of 16 December 2015 to the approximation of the laws of the Member States relating to trademarks expressly states that bad faith on the part of the applicant in the application for registration of a trademark constitutes grounds for invalidity of the registration, leaving it optional for the Member States to provide for bad faith in the application as grounds for refusal of registration.

However, EU legislation does not define the concept of bad faith in trademark

applications, nor does it specify factors to be considered for the integration of such a concept.

The Court of Justice has already recognised the concept of "bad faith" as an autonomous concept of EU law that must be given a uniform interpretation in the European Union (see Malaysia Dairy case, ECLI:EU:C:2013:435) and has issued successive decisions that guide the interpretation of the concept of bad faith in trademark law.

Nevertheless, considering the observed lack of uniformity and disparate interpretations regarding bad faith in applications for trademark registration in the Member States that were already assessing this ground, the EUIPN presents the common communication with harmonised practice for assessing this ground for invalidity of registration. [...]

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ICLG's 2024 edition of "Trade Marks Laws and Regulations"

Vítor Palmela Fidalgo & João Pereira Cabral

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Vítor Palmela Fidalgo and João Pereira Cabral authored the Portugal chapter for Trade Marks Laws and Regulations, published by the International Comparative Legal Guide (ICLG).

Inventa contributed to the 13th edition, providing a comprehensive overview of trademark legislation and regulations in Portugal, including requirements, timelines, opposition procedures and other related rights.

Access full chapter ▶



International **Comparative** Legal Guides



Trade Marks

2024

13th Edition

An essential guide to filing trademarks in the DRC

Sofia Araújo

Africa

D.R.C.



Nestled in the heart of Central Africa, the Democratic Republic of the Congo (DRC) is a vast and diverse country that commands attention both for its geographical expanse and its significant influence on the African continent. Bordered by nine neighbouring nations, the DRC's geographical coordinates place it at a crossroads of African cultures and histories.

To the north, it shares borders with South Sudan and the Central African Republic, while to the east, Uganda, Rwanda, Burundi, and Tanzania create a complex mosaic of regional interactions.

Zambia lies to the southeast, Angola to the southwest, and the Republic of the Congo to the west, forming a dynamic boundary that speaks to the interconnectedness of African nations.

International treaties and protocols

The DRC underscores its commitment to global intellectual property standards

through its participation in key international treaties. As a signatory to the Paris Convention, the country aligns with best practices in protecting industrial property rights. Additionally, as a member of the World Trade Organization (WTO), the DRC abides by the TRIPS Agreement, setting robust standards for the protection and enforcement of intellectual property rights within the context of international trade.

These engagements reflect the DRC's dedication to fostering innovation, encouraging international cooperation, and contributing to a fair and equitable global intellectual property landscape. Trademark registration operates on a flexible multi-class system, allowing businesses to protect their trademarks across various goods and services in a single application.

Trademark registration requirements

There are not many strict formal requirements in the DRC. To file a trademark, an applicant must submit:

- a simply signed power of attorney.
- the applicant's data, including name and address.
- a sample of the mark (not required for word marks).
- a list of goods and/or services in accordance with the Nice Classification; and
- a certified copy of the priority document (if applicable), with a verified French translation.



With a population surpassing 80 million and vast untapped resources, the DRC offers a substantial consumer base and a wealth of opportunities across various sectors.

Registration process

While not mandatory, it is highly recommended to perform a preliminary search before registering a trademark in the DRC. This proactive step helps applicants to identify potential conflicts and ensures a smoother registration process. Conducting this search is a prudent measure to enhance the chances of a successful and conflict-free trademark registration.

The application process consists of the following steps:

- Filing of the request before the Patent and Trademark Office (PTO).
- Issuance of application filing receipt with an application filing number.
- Formal and substantial exam conducted by the PTO.
- There is no specific provision for an opposition, as it is common law based.
- Issuance of registration certificate.

Validity

A trademark in DRC is valid for consecutive periods of 10 years from the date of application. Applicants only need to submit a simply signed power of attorney to file a renewal. There is a continuous non-use period of three years from the granting date, after which the mark may be subject to cancellation. The responsible entity for the cancellation action based on the non-use of a trademark is the Trademark Office.

Recordals

During the lifespan of a trademark, it may be necessary to amend the initially filed registration, given that the applicant or its details may change, and the information provided must be accurate.

In addition, any unrecorded information before the registry is not enforceable against

third parties. The following services are available in the country provided that the formal requirements are met:

- For a recordal of assignment, the applicant must submit:
 - a power of attorney, simply signed.
 - a notarised “Acte de Cession de Marque” (deed of assignment).
- For a recordal of change of name, the applicant must submit:
 - power of attorney, simply signed.
 - certificate of change of name, with certified French translation.
 - copy of the certificate of registration.
- For a recordal of change of address, the applicant must submit:
 - power of attorney, simply signed.
 - certificate of change of address/declaration signed before a public notary, with verified French translation.
 - copy of the certificate of registration.

The DRC stands as a compelling destination for investors keen to capitalise on its burgeoning market potential. With a population surpassing 80 million and vast untapped resources, the DRC offers a substantial consumer base and a wealth of opportunities across various sectors.

The evolving economic landscape, coupled with ongoing infrastructural developments, positions the country as a hotspot for investment.

For those considering trademark registration, the conducive regulatory environment and adherence to international standards further enhance the appeal of the DRC as an investment market.

As the nation continues its trajectory of economic growth and development, savvy investors recognising its strategic advantages stand to benefit from a dynamic market poised for innovation and prosperity.

Trademark and design applications by Chinese applicants in the EU from 1996 to 2023

João Pereira Cabral

European Union

China

IPR DAILY®

When exporting a product, it is advisable to have Intellectual Property (IP) related to that product in the market of destiny.

In addition to providing rights to explore the asset (trademark or a design, for example) in exclusivity, having IP in the market where the goods are exported lowers the probability of facing customs obstacles.

This is what several Chinese companies and individuals do every year in the European Union (EU), filing trademark (EUTM) and design (RCD) applications. How many is part of the object of this article^[1], as it focuses on the statistics of trademark and design applications by Chinese applicants.

The sources used are the “Statistical travel pack by country/territory, 01/1996 to 09/2023 Evolution”^[2], the “EUIPO Statistics for Community Designs 2003-01 to 2023-09 Evolution”^[3], and “EUIPO Statistics for European Union Trade Marks 1996-01 to

2023-09 Evolution” [4], all issued by the European Union Intellectual Property Office (EUIPO).

Total EUTM applications

The absolute number of EUTM applications filed by Chinese companies and individuals from January 1996 to September 2023, and the number of those that were registered totals 170,493 (until September 2023).

This represents 6.16% of all EUTMs and makes China the sixth country with more EUTM applications.

However, if we only take the year 2023 into account, China is the country with more EUTM applications (17 793, against the 16 894 from Germany, in second place). [...]

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Trademark rights in the crosshairs - Decoding investment boycotts and judicial dynamics in Algeria

Vera Albino & Inês Monteiro Alves

Africa

CorporateLiveWire

Using the Algeria boycott of Spanish goods as a case study, Vera Albino and Inês Monteiro Alves reflect on the nuanced interaction between political dynamics and intellectual property protection, exploring how challenging bilateral relations between nations or perceived inefficiencies in the judicial system can contribute to hesitancy among investors and affect both investment and IP protection.

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The Curious Case of an Emoji's Journey Through EU Trade Mark Law

Diogo Antunes

European Union

IP STARS
from ManagingIP

The increasing trend of registering digital symbols, such as emojis and hashtags, prompts a critical reassessment of how conventional trademark laws accommodate these modern forms

Diogo Antunes explores the Käselow Holding GmbH application, addressing the intersection of digital communication and legal principles.

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TRADEMARKS



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Defending inventors' rights against unlawful patent filings in Europe

Vítor Sérgio Moreira

Europe



This article explores the legal remedies under the European Patent Convention (EPC) that enable rightful applicants to reclaim ownership of European patent applications unlawfully filed by others. Such situations often arise from breaches of ethical or legal obligations.

Several scenarios can jeopardise an inventor's or organisation's rightful claim to a patent. For example: employee misconduct, when an employee invents something during the course of their employment but files a patent application in their own name instead of assigning it to their employer, as stipulated in their employment contract; team disputes, when a team member files a patent application claiming sole inventorship, excluding other contributors.

It also includes contractor breaches: when a consultant or contractor violates a consultancy agreement by filing a patent application without acknowledging the

company's ownership rights; unauthorised filings, when a third party learns of an invention—through theft, confidential disclosure, or other means—and files a patent application without the inventor's consent; and opportunistic filings, when a person files a patent application for an invention publicly disclosed by another party but not yet filed, exploiting the original inventor's delay.

Legal remedies for the lawful applicant

Under the EPC, the European Patent Office (EPO) has no power to determine a dispute as to whether or not a particular applicant is legally entitled to apply for a European patent application regarding an invention. As stated in decision G3/92 of the Enlarged Board of Appeal of the EPO, such disputes must be resolved in national courts.

However, Article 61 EPC, regarding European patent applications filed by non-entitled persons, defines:

1. If by a final decision it is adjudged that a

person other than the applicant is entitled to the grant of the European patent, that person may, in accordance with the Implementing Regulations:

- (a) prosecute the European patent application as their own application in place of the applicant;
- (b) file a new European patent application in respect of the same invention; or
- (c) request that the European patent application be refused.

Therefore, a lawful applicant can only invoke the remedies provided by Article 61 (1) EPC after instituting proceedings before a national court of the relevant contracting state against the unlawful applicant, and secure a favourable final decision.

The Protocol on Jurisdiction and the Recognition of Decisions in respect of the Right to the Grant of a European Patent (Protocol on Recognition) is an integral part of the EPC and outlines jurisdictional rules for resolving entitlement disputes. According to Article 9 (1) of the Protocol on Recognition, final decisions given in any contracting state on the right to the grant of a European patent in respect of one or more of the contracting states designated in the European patent application shall be recognised without

requiring a special procedure in the other contracting states. The Protocol on Recognition governs the selection of the competent court. A certain national court may be selected upon agreement between the parties. However, if the parties are an employee and his employer, said agreement only applies in so far as the national law governing the contract of employment allows it.

If an applicant for a European patent has their residence or principal place of business within one of the contracting states, proceedings shall be brought against them in the court of that contracting state. If an applicant for a European patent has their residence or principal place of business outside the contracting states, and if the party claiming the right to the grant of the European patent has their residence or principal place of business within one of the contracting states, the courts of the latter state shall have exclusive jurisdiction. In the remaining cases, the courts of the Federal Republic of Germany shall have exclusive jurisdiction.

Options for relief

Given the time-consuming nature of court proceedings, the lawful applicant can request a stay of prosecution under Rule 14(1) EPC by

providing evidence to EPO of pending national court proceedings. By requesting a stay of proceedings all acts and time periods are stopped and all fees in regard to those acts are no longer due until the proceedings are resumed. However, renewal fees for the disputed patent application must still be paid during this suspension. Since patent applications remain confidential for 18 months, a lawful applicant often becomes aware of unlawful filings only after publication. For instance, when the lawful applicant files a European patent application (EP-A) for their invention, they usually become aware of a previous European patent application (EP-B) regarding the same invention, filed by an unlawful applicant, after receiving the European Search Report (ESR) when the EPO cites EP-B as a novelty- (or inventive step-) destroying prior art document against EP-A.

In this example, besides using the legal remedies under Article 61 (1) EPC, the lawful applicant can reply to the ESR providing arguments that EP-B is a disclosure of the invention that was done in consequence of an evident abuse in relation to the applicant under Article 55 (1) EPC, with the proviso that publishing of EP-B must have taken place not earlier than six months preceding the filing of

EP-A. The EPO follows the case law defining that for “evident abuse” to be established, the unlawful applicant must have acted with either actual intent to cause harm or actual or constructive knowledge that harm would or could be a result of the disclosure of EP-B.

If the court decision is in favour of the lawful applicant, they can become a party of the prosecution of the European patent application filed by the unlawful applicant under Article 61 (1)(a) EPC, after informing the EPO in writing in due time. After this formal confirmation by the new applicant, the proceedings before the EPO will be resumed.

The lawful applicant can consider this approach if the scope of protection for their invention in the European patent application filed by the unlawful applicant is proper for their goals. Alternatively, the lawful applicant can also file a new application regarding their invention, under Article 61 (1)(b) EPC.

However, this approach does not allow the lawful applicant to add new subject-matter in the new application. Indeed, this new application is treated by the EPO as a divisional patent application of the European patent application filed by the unlawful applicant. Therefore, this new application has

the same priority date, but its contents must not extend beyond the contents of the original application. When the lawful applicant files a new patent application under Article 61 (1)(b) EPC, the original application is deemed to be withdrawn on the date of filing of the new patent application, and the lawful applicant shall pay the filing fee, the search fee and the designation fee for the new application. It is also possible that when the lawful applicant becomes aware of the existence of the European patent application filed by the unlawful applicant, said application has been withdrawn, refused or deemed to be withdrawn.

In these cases, the provisions of Article 61 (1)(b) EPC allow the lawful applicant to file a new patent application even if the original application is no longer pending. Another option available to the lawful applicant is to request the refusal of the European patent application filed by the unlawful applicant, Article 61 (1)(c) EPC, wherein the EPO must accede to this request, although the refusal decision is open to appeal.

Safeguarding innovation

To avoid issues regarding damage caused by patent applications filed by non-entitled persons, clearly define ownership terms in

employment, consultancy, or partnership agreements; use confidentiality agreements (NDAs) to safeguard sensitive information; continuously document contributions and maintain detailed records of the invention process; and improve the internal rules and procedures regarding trade secrets of the organisation during the development of the invention.

If a patent application is filed unlawfully, Article 61 EPC provides a robust framework for rightful applicants to reclaim ownership of the application, provided they secure a favourable national court decision. This ensures the integrity of the European patent system and protects the rights of genuine inventors.

Sources:

References to the European Patent Convention; Jelle Hoekstra / October 2023
EPO Guidelines 2024

Never underestimate the ‘industry’ requirement in patent applications

Susana Rodrigues

European Union



It is well known that for an invention to be patentable, it must be ‘new’, even if the concept of what is new is not fully clear. But if we move forward and ask about the other two patentability requirements that must be met for an invention to be granted a patent—inventive step and industrial applicability—others might scratch their noses and tilt their head. For those who deal with patents, either by drafting them or examining them, novelty is not that much a difficult requirement to fulfil, while inventive step can be the tough one. As regards industrial applicability, well...it is often (seen as) the easy one. But is it? According to the [European Patent Convention](#), an invention shall be considered as susceptible to industrial application if it can be made or used in any kind of industry, including agriculture.

What does this exactly mean?

According to the Boards of Appeal of the EPO, product (devices, systems, apparatuses,

substances, compositions) and processes (methods, uses) are objects susceptible to being applied in an industry, where industry is seen as “any activity that is carried out continuously, independently and for financial gain”. ([source](#): “Case law” of the Boards of Appeal of the EPO, 10th Edition 2022). With regard to methods, there are exceptions: surgery, therapeutic or diagnostic methods are not patentable. Since they are applied by a person, the application may differ depending on the professional, making some incompatible with an industrial application of those methods. However, products that are set to be used in those methods are possibly patentable. Let’s look into some insightful examples of case law treated within technical boards of appeal at the EPO related to patent applications and patents involving this third and so often underestimated requirement of industrial applicability. [...]

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A practical guide to successfully enter an international application in the EPO regional phase

Vítor Sérgio Moreira

Europe

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Understanding the procedures for entering an international patent application into the European Patent Office (EPO) regional phase under the Patent Cooperation Treaty (PCT) is crucial for securing European patent rights.

Vítor Sérgio Moreira provides a detailed overview of the necessary steps, deadlines, and potential legal remedies, guiding applicants through the complexities of the EURO-PCT process to ensure compliance and avoid costly errors.

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From quills to qwerty: the evolution of writing through patents

Marisol Cardoso

Worldwide



The development of writing tools over time reflects the evolution of human communication and technology and further demonstrates how advancements in materials and digital innovation have transformed the way we record and share information.

It is believed that writing originated in only one location—Sumer, southern Mesopotamia (around 3500 BCE)—and later spread across the world via cultural diffusion. The Sumerians used a stylus made of reed to inscribe cuneiform on wet clay tablets, which were then baked to preserve the writing for recording of transactions, laws, and stories.

By the same time, ancient Egyptians used hieroglyphs for inscriptions carved mostly on the walls of temples and tombs. Hieroglyphs, which means ‘sacred carving’, were created for eternity, either for the gods or for the afterlife.

The use of papyrus leaves for writing only appeared a few centuries later. In 3000 BCE, ancient Chinese civilisation’s development of ink and brushes made from animal hair facilitated more detailed and artistic forms of writing on silk and bamboo strips, until the Greeks and Romans’ use of parchment and quills (around 500 BCE) enabled more portable and durable writing.

In the Middle Ages, the quill pen, made from bird feathers, became the primary writing instrument for scribes and was used on parchment (animal skin) or vellum.

Pen innovation

But it is only when the early modern writing tools appeared that the history of writing meets the history of patents.

Metal nibs (part of the quill or pen which comes into contact with the writing surface to deposit ink) appeared to replace quills as they were more durable and could be

Dec. 11, 1945.

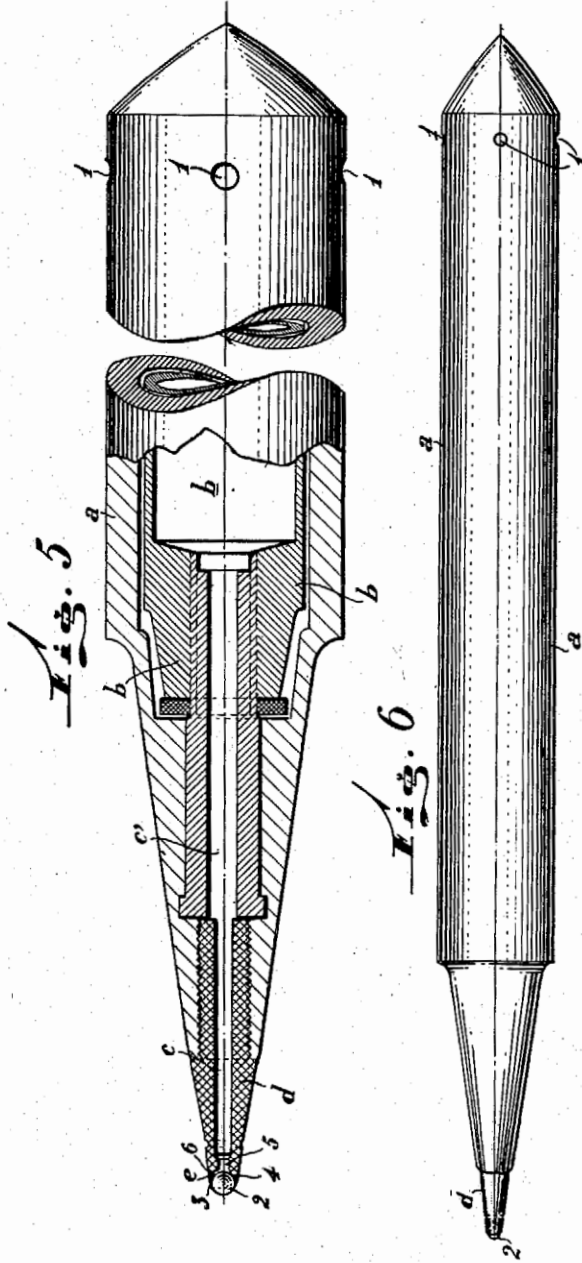
L. J. BIRO

2,390,636

WRITING INSTRUMENT

Filed June 17, 1943

3 Sheets-Sheet 3



Inventor

L. J. BIRO

By *Glascock Downing & Kelly*
Attorney

mass-produced. Even though writing instruments with metal nibs date all the way back to ancient Egypt, a metal pen point was only patented in 1808 by English inventor [Bryan Donkin](#).

The oldest patent known for a fountain pen is dated 1827, when [Petrasche Poenaru](#), a Romanian mathematician, patented a fountain pen in France that used a reservoir of ink, eliminating the need for constant dipping. By the late 19th century, improvements made fountain pens widely popular for their convenience and [Lewis Waterman](#), inventor and founder of Waterman Pen Company (a luxury pen brand), patented the first reliable fountain pen after losing a big sale with a client due to a leaking problem of the pen: an excessive discharge of ink when in use. In the following years, several Waterman patents were filed to cover fountain pens with different kinds of innovations.

The ballpoint writing apparatus created by [John Loud](#) in 1888 is considered the first ballpoint pen. The patent claims a pen with a spheroidal marking point capable of revolving in all directions for applying ink to rough surfaces, including wool and coarse wrapping paper.

But it was [László Jozsef Bíró](#) who invented the modern ballpoint pens, which relied on gravity to draw ink towards the tip, requiring the user to hold the pen perfectly upright in order to write. [Hymen Lipman](#) is credited with registering the first patent for a pencil with an attached eraser in 1858. A few years later, Lipman sold his patent to Joseph Reckendorfer, who went on to sue the pencil manufacturer Faber for infringement.

However, the result did not come as expected: the patent was declared invalid by the United States Supreme Court because the invention was actually a combination of two already known things with no new use.

Pencil technology, however, continued to develop: Danish company [Sprout](#) is the assignee of a patent for a plantable pencil wherein a capsule with one or more seeds is disposed at the non-writing end of the pencil. When the writing instrument is exhausted, the capsule may be planted into moist soil, which may cause the capsule to degrade and release the seeds, allowing plants to grow. In 2011, [Apple](#) patented the first generation of its 'Apple Pencil', an intelligent stylus which included multiple sensors to sense and transmit information to a corresponding touch-sensitive device. There are now four

generations of the Apple Pencil, which are not only used for navigating through the operating system, but also to allow precision writing, sketching, and drawing.

When it comes to mechanisation and consequently the revolution in speed and legibility of writing, the first practical typewriter dates from 1868 and had its origin in a printing machine designed two years earlier by [Christopher Latham Sholes](#) to assist with printing page numbers in books. Carlos Glidden became interested in the device and suggested that it might be adapted to print alphabetical characters.

A few years later, the patent was licensed and production started, but the action of the type bars was very sluggish and they tended to jam. To fix this problem, Sholes obtained a list of the most common letters used in English, and rearranged his keyboard from an alphabetic arrangement to one in which the most common pairs of letters were spread fairly far apart on the keyboard. This new arrangement was named the [Sholes QWERTY keyboard](#) and allows the operator to write faster than a person writing by hand. Typing efficiency was further enhanced by the introduction of electric typewriters in 1892, invented and patented by [George Blickensderfer](#). The advent

of personal computers and word processors in the 1970s marked a shift to digital writing, allowing for easy editing, formatting, and storing of text. This development transformed writing into a more flexible and efficient process, enhancing communication, collaboration, and information management.

Technologies like voice-to-text and AI-powered writing assistants emerged in the 2010s, offering new methods of text input. These innovations have made writing more accessible and efficient, breaking down barriers for those with disabilities and streamlining the writing process for all users.

Although these technologies are of great value to the evolution of writing, it is important to note that software and computer programs, as such, are excluded from patent protection under the European Patent Convention. The evolution of writing tools reflects humanity's quest for more efficient, durable, and convenient ways to record and disseminate information. From the humble beginnings of styluses and clay tablets to the sophisticated digital tools of today, each innovation has not only improved the efficiency and accessibility of writing but has shaped the way information is recorded, preserved, and shared.

Exclusions to healthcare treatment methods under the EPC

Susana Rodrigues & Marisol Cardoso

Europe



It is well known that patents can be granted for inventions (products, processes or methods and practical applications or uses) that are novel, inventive, and provided with industrial applicability. However, in Europe, as in many other jurisdictions, certain types of inventions are not considered patentable.

To this end, the European Patent Convention (EPC) sets forth the patentability criteria and Article 53 outlines its exceptions, that include:

- (a) inventions which commercial exploitation would be contrary to 'ordre public' or morality;
- (b) plant or animal varieties or essentially biological processes for the production of plants or animals; and
- (c) methods for treatment of the human or animal body by surgery or therapy and diagnostic methods practised on the human or animal body.

In this article, it is our objective to better understand the exceptions under Article 53(c) EPC by analysing Decisions of a Technical

Board of Appeal (T decisions). It is also our objective to determine possible ways to avoid an exclusion objection when drafting a patent application or to overcome an unfavourable decision during patent prosecution.

Breaking down Article 53(c) EPC

The exclusion of methods of treatment from patentability is a principle based on socio-ethical and public health considerations. The rationale behind this exclusion is to balance the interests of promoting scientific progress and innovation with the need to ensure that medical and veterinary professionals have the freedom to use their skills for the benefit of patients without being hindered by exclusive patent rights. The medical profession is often guided by ethical principles that prioritise patient welfare and the physician's duty to provide the best available care. [...]

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PATENTS



Comparative Analysis of IP protection in East Africa: Uganda vs. Rwanda, Tanzania, and Kenya

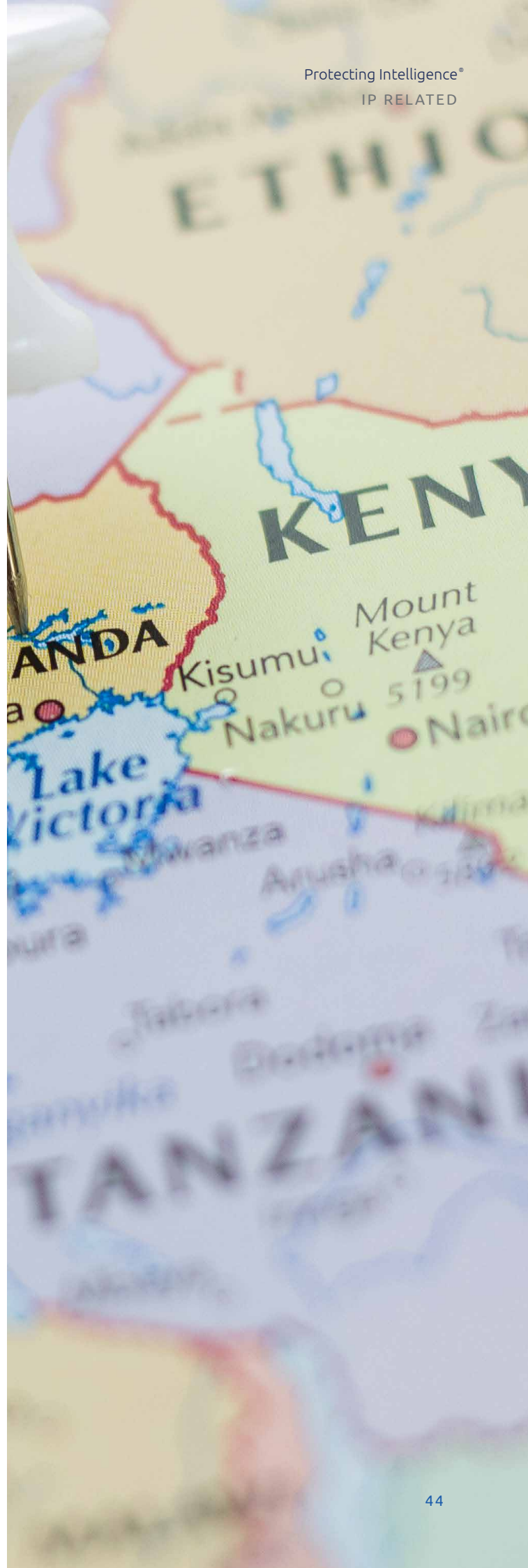
Vera Albino

Africa

IP STARS
from ManagingIP

Uganda's intellectual property (IP) framework has undergone significant updates in recent years, including the introduction of new trademark regulations and efforts to control counterfeiting. However, despite these advancements, Uganda continues to face challenges in enforcement and efficiency. While its situation shares similarities with Tanzania in many aspects, it remains weaker compared to other bordering countries, particularly Kenya and Rwanda. Vera Albino presents a comparative analysis of Uganda's IP landscape, highlighting areas of opportunity where the country can improve enforcement, enhance investor confidence, and foster trade integration.

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Protect Now or Later? Understanding the Value of Intellectual Property for SME

Diogo Antunes

Europe

Portugal

yunit
Consulting

In the early stages of setting up a small or medium-sized enterprise (SME), protecting intellectual property (IP) may not be the priority.

However, ensuring the protection of intangible assets such as brands and innovations is essential for long-term success.

Diogo Antunes analyzes the importance of IP, from registering trademarks to protecting innovations through patents or trade secrets, highlighting practical strategies for SMEs to balance initial costs with future competitiveness in the market.

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You Claim It's Green. Prove It. A Conversation with Daniel Reis Nobre

Daniel Reis Nobre

Worldwide



With the rise of eco-conscious branding, companies are competing for a green edge. However, not all claims are as sustainable as they seem, leading to unfair competition that threatens IP rights and brand integrity.

At the 2024 Leadership Meeting, taking place from November 12 to 15 in New Orleans, USA, Daniel Reis Nobre moderated the session titled “Green Gambits: Unfair Competition in the Eco-Friendly Era” and, in a interview with the INTA Bulletin, shared key highlights of the session, explaining the connection between unfair competition and false or misleading eco-friendly claims, along with insights into new regulatory efforts aimed at combating greenwashing.

Read interview



Battle over sweet traditions: the protection of Ovos Moles de Aveiro

Diogo Antunes

Europe

Portugal



In the picturesque region of Aveiro, Portugal, where tradition is as rich as the history that surrounds it, a legal battle has been brewing over one of the country's most cherished delicacies: Ovos Moles de Aveiro. This sweet treat, known for its delicate shell and rich egg yolk filling, has long been a symbol of the region, with European Union protected geographical indication (PGI) status. But in recent years, this protection was put to the test in a case that has sparked debate over the limits of geographical indications and the protection of traditional products.

The controversy began when the Associação de Produtores de Ovos Moles de Aveiro (APOMA), a group dedicated to preserving the authenticity of this regional sweet, filed a lawsuit against Calé – Indústria e Comércio, and a local producer identified as AA. The association accused the defendants of infringing on the PGI by producing and selling sweets named 'Sardinhas de Peniche' and 'Carapaus Doces da Nazaré', which APOMA

argued bore a striking resemblance to Ovos Moles de Aveiro.

Local identity

According to APOMA, these sweets not only imitated the unique shape and presentation of Ovos Moles but posed a threat to the integrity of the PGI designation. The association demanded the immediate cessation of the production, sale, and advertisement of these products, along with the removal of existing stocks from the market. It also sought compensation for damages, arguing that the defendants were unjustly enriching themselves by capitalising on the reputation of Ovos Moles de Aveiro.

On the other side, Calé—Indústria e Comércio defended its creations, claiming that the 'Sardinhas de Peniche' and 'Carapaus Doces da Nazaré' were not imitations but rather innovative products inspired by local traditions. It argued that its sweets were distinct in both flavour and appearance,

differing significantly from *Ovos Moles de Aveiro*, and therefore did not infringe on the PGI protection.

The defendants also highlighted that their products were region-specific, representing the culinary heritage of Peniche and Nazaré, two coastal towns with their own rich traditions. The ‘*Sardinhas Doces de Peniche*’ and ‘*Carapaus Doces da Nazaré*’ were designed to evoke the image of these fish, key elements of the local identity, and were sold in packaging that clearly identified their origin. The case raised fundamental questions: should a PGI extend to the visual elements of a product, or is it confined strictly to the name and specific geographical origin? Could the creation of new products that draw inspiration from traditional ones be considered an infringement, or should such creativity be encouraged as a way to keep culinary traditions alive?

These were the issues that the Portuguese courts had to grapple with as the case made its way through the judicial system. The lower courts sided with the defendants, ruling that the visual similarities alone were not sufficient to prove that the PGI had been infringed. They found that the ‘*Sardinhas de Peniche*’ and ‘*Carapaus Doces da Nazaré*’

were distinct enough in their presentation and did not confuse consumers into thinking they were purchasing *Ovos Moles de Aveiro*.

The Supreme Court’s verdict

Unwilling to accept the lower courts’ rulings, APOMA appealed to the Portuguese Supreme Court. However, the Supreme Court upheld the previous decisions, delivering a clear message on the scope of PGI protection.

The court concluded that while the PGI does protect the name and reputation of *Ovos Moles de Aveiro*, it does not extend to every possible visual or thematic element associated with the product. The court emphasised that the defendants’ products were sufficiently distinct in both their regional identity and their market presentation.

The Supreme Court also noted that the products in question were not likely to cause confusion among consumers. The packaging, marketing, and overall presentation of ‘*Sardinhas de Peniche*’ and ‘*Carapaus Doces da Nazaré*’ were tailored to their respective regions, making it clear that these sweets were not trying to pass themselves off as *Ovos Moles de Aveiro*.

For producers like Cale—Indústria e Comércio, the decision is a victory for creativity and regional diversity. It allows for the continued development of products that celebrate local traditions while maintaining clear distinctions from those already protected by PGIs. For APOMA and other defenders of traditional products, the ruling serves as a reminder of the importance of the scope of protection sought under PGI status.

This ruling could influence how other regions approach the protection of their products, particularly when it comes to balancing tradition with innovation. It underscores the need for clear guidelines and definitions within PGI designations to avoid future conflicts and ensure that both tradition and creativity can coexist in the marketplace.

The Ovos Moles de Aveiro case is more than just a legal battle over sweets; it is a reflection of the broader struggle to preserve cultural heritage while embracing the new. As regional products gain prominence in the global market, cases like this one will likely become more common, challenging courts to find the delicate balance between protection and innovation.



CNIPA-ARIPO PPH Pilot Program

Inês Monteiro Alves

Africa

China

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From Managing IP

CNIPA and ARIPO will collaborate over the next five years to enhance intellectual property cooperation between China and Africa through the new CNIPA-ARIPO Patent Prosecution Highway (PPH) Pilot Program.

Inês Monteiro Alves explores how the pilot program is designed to streamline patent examinations across both regions. By leveraging prior work completed by one patent office, the program aims to increase efficiency, reduce costs, and attract more filings, fostering greater collaboration and innovation.

Read more



The Legal 500: Intellectual Property Comparative Guide

Vítor Palmela Fidalgo & João Pereira Cabral

Europe

Portugal

The
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500

The 2024 edition of The Legal 500: Intellectual Property Comparative Guide is now available, featuring insights from Vítor Palmela Fidalgo and João Pereira Cabral on Intellectual Property laws and regulations in Portugal.

This comparative guide delivers an up-to-date overview of intellectual property law and practice across numerous jurisdictions.



Access full chapter ▶



The Tunisian women leveraging IP to protect their art and heritage

Vera Albino

Africa

Tunisia



Each year, on August 13, Tunisia observes National Women's Day, a significant occasion marking the anniversary of the 1956 promulgation of the Code of Personal Status. This landmark legal framework was pivotal in granting Tunisian women rights and freedoms that were unparalleled in the Arab world, setting a precedent for gender equality and women's rights.

Despite the progress made, the journey toward gender parity remains a continuous struggle, as highlighted by the short film "[Beyond Reality](#)" directed by Bechir Zayene, which underscores the ongoing challenges and setbacks faced by women in Tunisia, including the recent decline in female representation in parliament due to changes in electoral regulations under President Kais Saied. Nonetheless, Tunisian women continue to make remarkable strides in various fields, demonstrating resilience and innovation. With a literacy rate of 72% and constituting 42% of higher education

students, Tunisian women are not only advancing academically but also making significant contributions to the country's development. This progress is exemplified by the Tunisian female team that achieved third place at the [European Inventor Award 2024](#), reflecting the burgeoning role of women in scientific and technological innovation.

One of the noteworthy trends in recent years is the increasing use of intellectual property (IP) tools by Tunisian women to safeguard and promote their artistic and cultural contributions. IP rights, including patents, trademarks, and copyrights, offer essential protections that enable creators to preserve their works, secure economic benefits, and gain recognition on both national and international stages.

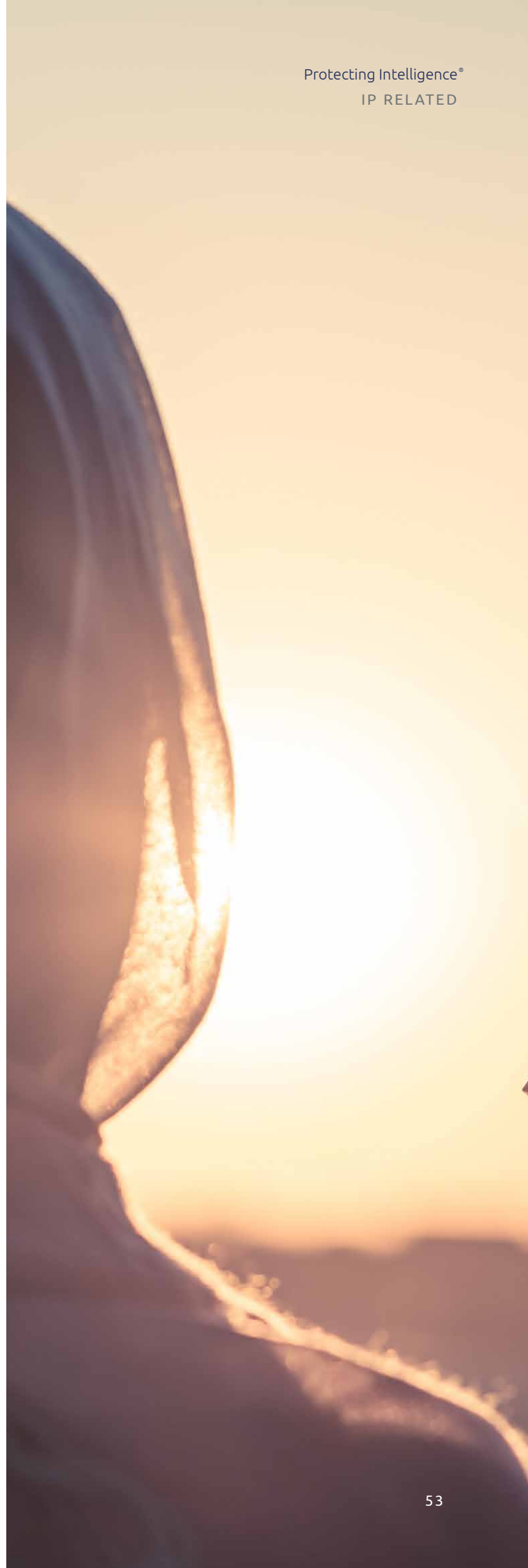
Various Tunisian authorities, including the Ministry of Cultural Affairs and the Ministry of Justice, along with international organisations such as the European Union,

the United Nations Development Programme (UNDP), and the African Development Bank, have played a crucial role in supporting these endeavours. Through events, partnerships, and financial support, these institutions are helping to raise awareness about the importance of IP and provide critical resources for women entrepreneurs and artists.

The achievements of Nadia Khiari, Sonia Feki, Sadika Keskes, and Samia Ben Abdallah exemplify the significant role of IP in supporting and advancing Tunisia's creative and entrepreneurial landscape. Tunisian women who have effectively leveraged IP tools to protect and promote their artistic and cultural creations, both within Tunisia and on the global stage:

1. Nadia Khiari: Creator of *Willis from Tunis*

Nadia Khiari is a distinguished Tunisian cartoonist renowned for her creation, Willis from Tunis. This character, a satirical cat, offers poignant commentary on political and social issues in Tunisia and beyond. Through her cartoons, Khiari employs humour and incisive wit to address contemporary societal challenges, critique political figures, and explore social norms. Her work has garnered international acclaim, earning numerous



awards for its insightful and thought-provoking content.

In addition to securing copyright protection for her cartoons, Nadia Khiari has also registered her character Willis from Tunis as a trademark in Tunisia. This dual approach—protecting her IP through both copyrights and trademarks—ensures that her creative expressions are safeguarded from unauthorised use and exploitation. By doing so, she not only preserves the integrity of her work but also enhances its economic value and cultural significance.

2. Sonia Feki: Founder of “HABIBA Jewellery”

Sonia Feki, the founder of "HABIBA Jewellery," has channelled her personal grief into a flourishing business that celebrates traditional Tunisian craftsmanship and the resilience of women. Named in honour of her late mother, the HABIBA Jewellery brand embodies elegance and cultural heritage through meticulously handcrafted pieces. Each item of jewellery reflects traditional Tunisian techniques and showcases the skills of local artisans. To protect her brand on an international scale, Sonia Feki used the Madrid System for international trademark registration.

This system allows her to secure trademark protection across multiple jurisdictions, safeguarding her brand against infringement and counterfeiting. By leveraging this global IP tool, Feki ensures that HABIBA Jewellery's distinctive designs and cultural heritage are preserved and recognised worldwide.

3. Sadika Keskes – Founder of the Sadika Glass-Blowing Center

The Sadika Glass-Blowing Center in Gammarth, Tunisia, is a testament to the artistic excellence and resilience of Sadika Keskes. Established in 1984, the centre has gained international acclaim for its artisanal glass art, with creations featured in prestigious locations such as the Vatican and New York's Rockefeller Center. Sadika Keskes's dedication to her craft and her ability to overcome significant challenges, including those arising from the 2011 Jasmine Revolution, have solidified the centre's reputation as a global leader in glass art.

The centre's success is partly attributable to the strategic protection of its IP. The trademark "SADIKA" has been registered in key international markets, ensuring that the brand's unique glass creations are safeguarded against imitation and unauthorised use. This IP protection has

facilitated the centre's expansion into new markets, securing its place as a prominent player in the global art scene.

4. Samia Ben Abdallah: Owner of AWA Leather Goods

Samia Ben Abdallah, a graduate of the National School of Architecture and Urban Design in Tunis, founded "AWA" (Architect with Artisan) in 2017. Her brand, which specialises in leather goods and accessories, is inspired by Tunisia's architectural heritage and showcases the talents of local artisans. Samia's approach to business emphasises sustainability, using leather offcuts from luxury brands and sourcing unsold "fast fashion" items through the Indigo Tunisia platform.

Supported by the Souk At-tanmia program, Samia meticulously planned her business and utilised trademark protection to secure the uniqueness of the AWA brand. Over six years, AWA has introduced over 100 product lines and expanded into international markets. Samia's strategic approach, combined with high-quality training from Souk At-tanmia, has been instrumental in her success. Her future plans include further international expansion and the establishment of strategic partnerships to drive growth.

Summary

Tunisian women are adeptly harnessing IP tools to safeguard and elevate their artistic and cultural contributions. By effectively utilising IP rights, they not only protect their creations but also enhance their global presence and economic potential.

The achievements of Nadia Khiari, Sonia Feki, Sadika Keskes, and Samia Ben Abdallah exemplify the significant role of IP in supporting and advancing Tunisia's creative and entrepreneurial landscape.

These women's successes underscore the importance of IP protection in preserving cultural heritage and promoting innovation, highlighting the ongoing impact of Tunisia's pioneering spirit in championing women's rights and creativity on the global stage.

Overcoming enforcement challenges in Tanzania

Inês Sequeira

Africa

Tanzania



IP development in Tanzania has seen significant strides in recent years, reflecting the country's growing recognition of the importance of IP in fostering innovation, creativity, and economic growth.

The Tanzanian government has been proactive in aligning its IP framework with international standards and enhancing enforcement mechanisms to protect intellectual property rights (IPRs).

Legislative framework

Tanzania is a contracting state to the following international and regional legal instruments:

- ARIPO (both the Banjul Protocol on Marks and the Harare Protocol on Patents and Industrial Designs)
- Berne Convention for the Protection of Literary and Artistic Works.
- Nice Agreement.
- Marrakesh VIP Treaty.
- Paris Convention for the Protection of

Industrial Property.

- Patent Cooperation Treaty.
- TRIPS Agreement.
- UPOV Convention.
- WIPO Convention.
- The International Convention for the Protection of New Varieties of Plants.
- AFCFTA Agreement (Agreement Establishing the African Continental Free Trade Area).
- EAC Treaty (Treaty for the Establishment of the East African Community).
- SADC (the Southern African Development Community).

Enforcement hurdles

Despite these advancements, enforcement of IP rights in Tanzania faces several challenges. Issues such as limited public awareness about IP, inadequate resources for enforcement agencies, and the prevalence of counterfeit goods pose significant hurdles. [...]

Read more



World IP Day 2024: Intellectual Property as a Catalyst for Achieving Sustainable Development Goals in Africa

Diogo Antunes

Africa

Every year on April 26th, we celebrate World Intellectual Property Day, an occasion set aside to reflect on the crucial role that intellectual property rights play in fostering innovation and creativity across the globe. This year (2024) we explore how innovations protected by intellectual property can act as critical catalysts in achieving the Sustainable Development Goals in Africa. The interplay between intellectual property (IP) and sustainable development in Africa presents a unique opportunity to foster social and economic growth.

Diving deeper into the implications of IP on critical Sustainable Development Goals (SDGs) such as no poverty, quality education, and clean water and sanitation, it becomes clear that the strategic use of IP rights can accelerate progress across the Continent.

IP and Poverty Reduction

Patent systems and IP rights can be crucial in

stimulating local innovation that addresses poverty directly. For instance, patents on agricultural technologies can help African farmers increase crop yields, manage pests more effectively, and enhance food security, directly contributing to SDG 1 No Poverty.

However, for this potential to be reached, it is essential that these innovations are accessible and affordable to those who need them most. Local governments and international bodies must work together to ensure that IP laws do not hinder but rather facilitate the dissemination of life-changing technologies.

Education Through IP

Quality education (SDG 4) is another area where IP holds significant promise. Educational technologies, such as e-learning platforms and educational software, often rely on copyright protection. These tools can revolutionize educational access in remote

areas of Africa, providing scalable solutions that can be monetized through IP. Additionally, fostering an understanding of IP rights among young African entrepreneurs can inspire students to engage in creative solutions, thus driving a culture of innovation from the ground up.



As Africa continues to face complex developmental challenges, intellectual property can serve as a powerful tool for sustainable growth.

Clean Water and Sanitation Innovations

Regarding clean Water and Sanitation (SDG 6), IP can play a transformative role by way of protecting innovations that provide solutions to water management issues in Africa. Patented technologies in water purification, efficient plumbing systems, and sustainable water management can provide foundational changes that improve the quality of life in the Continent.

The challenge lies in ensuring that the patented solutions are not restricted by high costs or IP disputes, that may make these inaccessible to the communities that need them the most. A compelling case in South Africa demonstrates the potential of IP in transforming agricultural waste into valuable resources.

Researchers at Stellenbosch University have developed a method to convert waste pulp into a new feedstock for the chemical industry. This innovation not only supports SDG 12 (responsible consumption and production) but also contributes to economic sustainability by creating new products from waste materials.

Moving Forward with Strategic IP Management

To capitalize on IP's potential to support sustainable development in Africa, policymakers, business leaders, and the international community must adopt a nuanced approach. This includes:

- Developing IP policies that are aligned with national development goals and are accessible to local innovators.
- Investing in IP education and awareness campaigns to nurture a culture of innovation and creativity.
- Promoting public-private partnerships that leverage IP for social and economic benefits.
- Ensuring equitable access to patented technologies through licensing agreements or public-private partnerships.

An IP Marathon held in Cape Verde is an excellent example of how groundbreaking

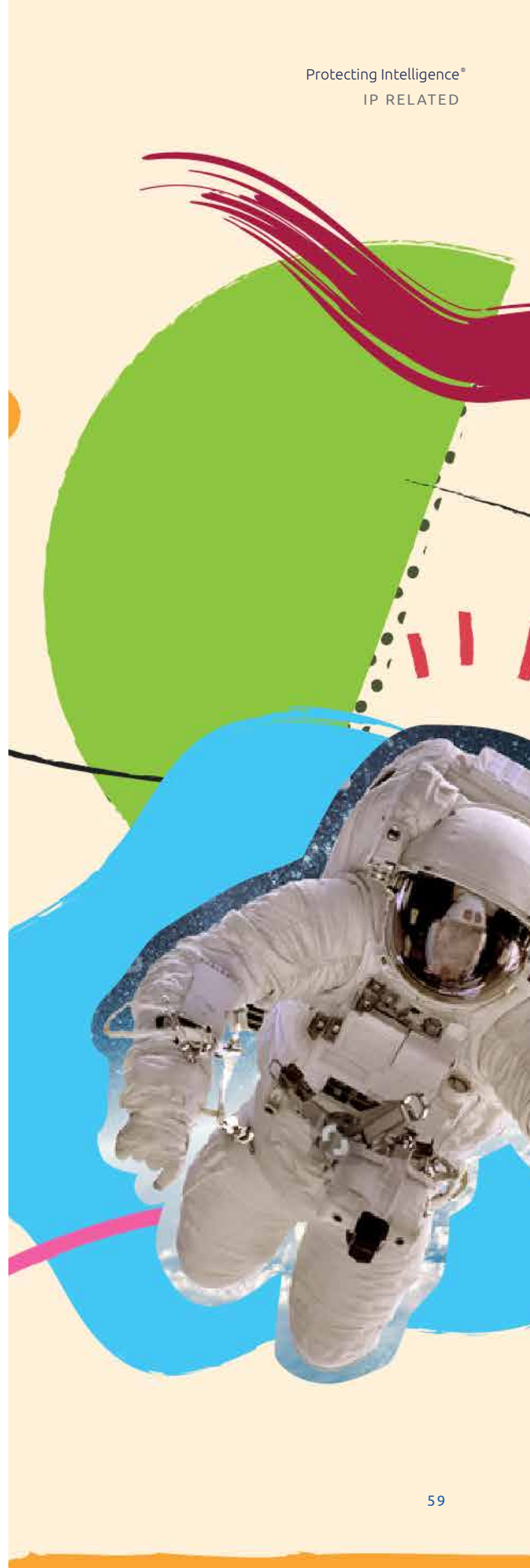
initiatives can drive IP education. Young Cape Verdeans were encouraged to devise solutions using IP, focusing on real-world challenges in sectors such as energy and tourism.

This event not only educated participants on IP strategies but also demonstrated practical applications, fostering a deeper understanding and appreciation for IP in nurturing local innovations.

As Africa continues to face complex developmental challenges, intellectual property can serve as a powerful tool for sustainable growth.

By aligning IP strategies with the SDGs, African nations can harness innovation and creativity to address critical needs such as poverty, education, and water sanitation. This approach not only enhances economic opportunities but also ensures a sustainable and prosperous future for all.

Image source: WIPO



Protect Your Intellectual Property Before Infringement Strikes

Angela Adebayo Agebe-Davies

Africa

Nigeria

ARISE
NEWS

Angela Adebayo, Regional Director of Inventa Nigeria, was invited by Arise News, a world news channel, to discuss World Intellectual Property Day, which was celebrated on April 26th.

Angela took the opportunity to clarify the significance of World IP Day and highlight the proactive steps that Nigerian creators can take to safeguard their rights and effectively prevent infringements.

Play video



How PVC sandals became a global icon

Inês Sequeira

Europe

Africa



The iconic plastic sandal, known as ‘medusa’, or by various other names such as ‘skeleton’, ‘jelly’, and ‘lêkê’ in different regions, with flexible structures and affordable prices, continues to delight customers globally, showcasing their enduring popularity after 75 years in the market.



Source: Auvergne Region—General Inventory of Cultural Heritage, ADAGP

Originating from a village named Les Sarraix in the Puy-de-Dôme region of Auvergne, France, the story dates to 1946. Jean Dauphant, a cutlery maker, faced a problem when he found himself with surplus PVC. To save his investment, he ingeniously repurposed the material to craft sandals, giving rise to the first plastic sandals, initially called

‘Sarraizienne’ and later ‘Plastic—Auvergne’. Additionally, the sandals gained popularity due to a shortage of leather after World War II, leading to their production with PVC material.

Anne-Céline Humeau, CEO of Humeau-Beaupréau, acquired the moulds for the sandals in the early 2000s, reviving production in Beaupréau-en-Mauges, France. The success of the sandals lies, especially in Asian and African markets, in its durability during monsoon seasons.

Available in various colours and sizes, the Medusa sandals evoke nostalgia and fond memories for many, symbolising holidays, sunshine, and timeless fashion.

Despite encountering limited success initially, these sandals found their way to Africa, thanks to a French shopkeeper based in Dakar, who foresaw their potential. By the 1950s, they had become a staple in Senegal and its neighbouring countries.

A cultural expression in Ivory Coast

Despite their simplicity and affordability, lèkè have evolved into a hallmark of Ivorian cultural heritage. They are widely embraced by individuals of all age groups, from children to adults, and are particularly prevalent during the rainy season. While global alternatives such as flip-flops have gained traction elsewhere, lèkè have retained their prominence in Ivory Coast as an essential accessory. They are regarded as a symbol of humility and are worn across various social demographics.

”

While they may lack durability compared to professional soccer cleats, lèkè are seen as a source of pride among players, with worn-out soles considered badges of dedication to the sport.

In Ivory Coast, lèkè became intertwined with the zouglou music movement in the 1990s, and later became associated with political activism. Over time, they have maintained their cultural significance, worn proudly by musicians, activists, and ordinary citizens.

Recently, they have experienced a resurgence in popularity, particularly among rap stars and celebrities, solidifying their status as a lasting cultural icon.

Lèkè have also become a symbol of street soccer culture in the country. They are favoured for their comfort and practicality, especially in informal games played on sandy pitches and in dusty alleys. While they may lack durability compared to professional soccer cleats, lèkè are seen as a source of pride among players, with worn-out soles considered badges of dedication to the sport. As Ivory Coast competes in the Africa Cup of Nations, the popularity of lèkè surges, reflecting the nation's passion for soccer and resilience in the face of challenges. Moreover, a diverse array of styles is available, encompassing both basic iterations and upscale variants offered by well-known fashion labels such as Gucci and Prada. Patents, trademarks, and designs played a crucial role in protecting IP related to this humble but successful item. Here's how they apply:

- **Patents:** Patents can protect the unique features or functions of plastic sandals, such as innovative materials, manufacturing processes, or design elements. For example, if someone invents a new type of sole material that enhances comfort or durability, they could potentially patent it to prevent others from using the same technology without permission.

United States Patent [19]
Sabins

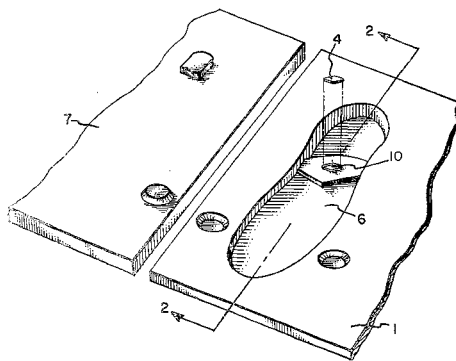
[11] **Patent Number:** 4,479,296
[45] **Date of Patent:** Oct. 30, 1984

[54] **METHOD OF MANUFACTURING A RUBBER SHOE SOLE**
[75] **Inventor:** Kenneth C. Sabins, Windsor, Vt.
[73] **Assignee:** The Goodyear Tire & Rubber Company, Akron, Ohio
[21] **Appl. No.:** 487,299
[22] **Filed:** Apr. 21, 1983
[51] **Int. Cl.:** B23P 17/00
[52] **U.S. Cl.:** 29/527.1; 264/552; 264/266; 264/275; 72/343
[58] **Field of Search:** 29/527.2, 527.4; 264/266, 259, 271, 279; DIG. 64, 552

rubber shoe sole having a decorative metal piece incorporated therein comprising molding a metal slug to comply to the shape of a fenced area in a shoe mold while simultaneously shaping and vulcanizing a rubber slug in the shape of said shoe mold at a temperature sufficient to vulcanize said rubber slug with the provision that said temperature be from about 0° C. to about 80° C. less than the melting point of said metal slug. This invention more specifically discloses a method for the manufacture of a rubber shoe sole having a decorative metal piece incorporated therein comprising:
(a) placing a metal slug in a fenced area of a shoe mold;
(b) placing an uncured rubber slug on top of the metal slug in said shoe mold;
(c) closing said shoe mold; and
(d) applying a sufficient amount of heat and pressure to said mold so as to simultaneously shape said metal slug and to shape and vulcanize said rubber slug, said metal slug having a melting temperature from about 0° C. to 80° C. greater than the temperature used to vulcanize said rubber slug.

[56] **References Cited**
U.S. PATENT DOCUMENTS
3,648,358 3/1972 Cannady, Jr. et al. 29/527.4
Primary Examiner—Howard N. Goldberg
Assistant Examiner—Y. K. Rising
Attorney, Agent, or Firm—Alvin T. Rockhill
[57] **ABSTRACT**
This invention reveals a method of manufacturing a

18 Claims, 4 Drawing Figures



Source: US4479296 - Method of Manufacturing a Rubber Shoe Sole in the name of The Goodyear Tire & Rubber Company

- **Designs:** Design rights protect the aesthetic appearance or visual design of plastic sandals. This can include elements such as shape, pattern, ornamentation, or surface decoration. Design rights prevent others from copying or imitating the unique visual characteristics of a product. For example, if a designer creates a distinctive pattern for the straps of plastic sandals, they could register that design to prevent unauthorised copying by competitors.



Registration office code
BR
Application number
302017001229
Application language code
pt
Application date
17/03/2017
Registration number
302017001229
Registration date
17/04/2018
Expiry date
17/03/2027
Design current status code
Registered and fully published
Design current status date
17/04/2018

Source: Brazilian design in the name of Grendene

Overall, patents, trademarks, and designs are essential tools for protecting the innovation, branding, and visual appeal of a product in the marketplace. They help ensure that creators and manufacturers can benefit from their inventions and investments while maintaining a competitive edge in the industry.



Source: WIPO (Madrid) 1308909 and France INPI 3303802 in the name of Humeau Beaupreau

From Ideas to Industry - How IP fuels Mauritius' manufacturing growth

Sofia Araújo

Africa

Mauritius



In the heart of the Indian Ocean, Mauritius is not only known for its breathtaking landscapes but is also emerging as a hub for innovation within its dynamic manufacturing sector. With a keen focus on fostering a culture of innovation, the Mauritian government has taken significant steps to put the nation at the forefront of cutting-edge technologies and processes.

It is in this context that various government initiatives and programs have been set up to encourage research and development, taking advantage of the favorable geographical location.

The government also underlines the key role of solid intellectual property (IP) protection to encourage companies to invest in innovative technologies, ensuring a sustainable and vibrant future for Mauritius' manufacturing sector. This serves as an incentive for companies to invest in cutting-edge technologies, guaranteeing a

lasting and thriving future for the manufacturing sector in Mauritius.

Growing Innovation Ecosystem

Fiscal Incentives for Manufacturers in Mauritius:

- Eight-Year Income Tax Holiday for High-Tech Companies.
- Elimination of Import Duties on Equipment and Raw Materials.
- A 25% refund on basic freight costs for exports to eligible African ports advantages under the Freight Rebate Scheme.
- A 60% refund on air freight costs for various manufactured products.
- VAT Reimbursement on Exported Raw Materials.
- Accelerated Depreciation on Machinery.
- Tax Incentives for Research and Development (R&D). [...]

Read more



How Tanzania boosted confidence in IP by training judges

Miguel Bibe

Africa

Tanzania



An article on December 29, 2023, in the Daily News reported that Tanzania has gained international recognition for its efforts to bolster its capacity to administer justice and handle disputes in the realm of IP.

This recent acknowledgement follows multiple initiatives aimed at enhancing the knowledge of judges and magistrates, providing them with the opportunity to deepen their understanding of various complexities around IP legislation, thereby enabling more effective management of court cases.

According to Chief Court Administrator Elisante Ole Gabriel, Tanzania has undertaken several efforts through judicial administration to reinforce access, expediency, and security in resolving IP disputes, including the development of specific guidelines tailored for judges and magistrates. Additionally, Gabriel highlighted Tanzania's global ranking as second in terms

of participation of judges and magistrates in training, trailing only behind Egypt.

He also underscored the close collaboration between Tanzanian judicial decision-makers and the World Intellectual Property Organization (WIPO), resulting in the development of guidelines that will serve as a benchmark for judges and magistrates in handling future cases involving copyrights, trademarks, patents, and industrial designs.

Gabriel noted that approximately 250 judges and magistrates participated in IP-focused distance learning programmes during 2022 and 2023, significantly enhancing their understanding and knowledge across different IP domains. [...]

Read more



Prada's iconic (but not totally distinctive) triangle

Mariana Hazt Lencina

European Union



Trademarks are signs that identify the commercial origin of certain goods and services and distinguish them from those of other companies. However, while this simple sentence explains their intended function, identifying a trademark isn't as straightforward. Words and symbols are the first types of trademarks that we can imagine. However, this is only the tip of the iceberg. Trademarks can be found in colours, sounds, shapes and even patterns. This is not an exhaustive exemplification. Mainly, a trademark must be distinctive.

Prada's triangles

Recently, the distinctiveness of the "iconic Triangle" from Prada was debated, regarding the application for the registration of a pattern trademark of multiple triangles, in black and white. This pattern of multiple triangles was the object of the European Union Trademark application No. 018683223, which covered goods and services of classes 3, 9, 14, 16, 18, 20, 24, 25, 27, 28 and 35. In February 2023, the trademark application was

refused, for being "devoid of any distinctive character". It is important to note that the distinctive character of a trademark is analysed by considering the perception of the relevant consumer. In this case, the relevant consumer is not only the consumer of luxury goods but the average consumer of the goods and services covered by the application. The European Union Intellectual Property Office (EUIPO) considered that the pattern "consists of a decorative design on the objected goods or their packaging in Classes 3, 9, 14, 16, 18, 20, 24, 25, 27 and 28 and is a banal design element in relation to the services in Class 35". Analysing the goods and services covered by the application, the EUIPO refused the trademark application for most of them, indicating that PRADA could continue with the registration procedure for a few items such as:

- Class 9: Recorded and downloadable media, computer software, blank digital or analogue recording and storage media; LED [light-emitting diodes]; electronic publications.

- Class 20: Shells; yellow amber.
- Class 35: Business management; business administration; office functions; auctioneering; business research; import-export agencies; marketing research; marketing studies; modelling for advertising or sales promotion; public relations; shop window dressing; organisation of fashion shows for promotional purposes.

Prada loses appeal

PRADA appealed and the Board of Appeal dismissed it on December 19, 2023, deciding that the consumer would not connect the pattern with the commercial origin, and therefore, the previous decision was correct, allowing the registration for only some of the goods and services. The crux of the matter lay in the inherent distinctiveness of the pattern which, on its own, had to evoke a connection to the commercial origin without ambiguity (without second thoughts).

The European Union Trademark Regulation (Regulation (EU) 2017/1001 of the European Parliament and of the Council of 14 June 2017) disposes, on its article 7 (3), that a trademark application won't be rejected for lack of distinctiveness if it "has become distinctive in relation to the goods or services for which

registration is requested as a consequence of the use which has been made of it".

Acquired distinctiveness challenge

As explained by Eleonora Rosati, "the only card that it [Prada] should have played from the outset—seems to be claiming and demonstrating acquired distinctiveness of its Triangle mark, with however the awareness that many worthy fashion brands have fallen on this front already". The acquired distinctiveness is not a simple task. It has procedures and some examination parameters, such as the relevant territory (that must be in the European Union, even though there is no need to prove the distinctiveness in each Member State) and the perception of the consumer (all the related consumers and not only those of luxury goods). Prada has already many other registrations with the triangle, and this decision doesn't mean that they are unprotected. On the other hand, despite pattern signs being accepted as trademarks, some of these have a long and hard battle to be considered (or not). While Prada maintains other registrations with the triangle, the rejection of this specific pattern trademark underscores the challenges some patterns face in obtaining trademark protection.

5 minutes reading about

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Romania joins the UP system on September 1

On September 1, 2024, Romania joined the Unitary Patent (UP) system. This allows patent holders to secure uniform protection through a single application, simplifying enforcement and reducing costs. [\[+\]](#)

EPO launches additional fee reductions for European patent applications

On April 1, 2024, the EPO introduced fee reductions for European patent filings by micro-entities, including SMEs, universities, non-profits, public research organizations, and individuals. [\[+\]](#)

Libya streamlines regulations and updates non-renewed trademarks

The Libyan Trademarks Office Director issued Decision No. 335 of 2024 to streamline regulations, canceling trademarks not renewed within the deadlines set by Article 1257 (2010). [\[+\]](#)

Mozambique: IPI updates official fees

The Mozambican Industrial Property Institute (IPI) announced updates to its official fees, reflecting changes in the IP protection landscape. These updates, effective from February 28, 2024, covered various services including registration, renewal, alterations, transmissions, and legal procedures such as oppositions and responses to provisional refusals. [\[+\]](#)

Libya: New trademark registration formalities effective 1 May, 2024

On February 14, the Libyan Ministry of Economy and Trade announced changes to the trademark registration procedures, which were set to be enforced starting 1 May 2024. These updates were designed to enhance the efficiency and legal conformity of the trademark registration process in Libya. [\[+\]](#)

IP News & Insights





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inventa
intellectual property



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