

STREN & BLAN PARTNERS

NEWSLETTER

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REGULATORY UPDATES

A. FEDERAL MINISTRY OF INDUSTRY, TRADE, AND INVESTMENT

i. **The Opposition Period for the Journal Vol.1 No. 3 Online/Old Online/Pre-IPAS of 13th December 2023, and Vol. 1 No. 4 Online of 15th December 2023 has Elapsed:**

The deadline for interested parties to object to the registration of newly published trade marks under the Trade Marks Act and Regulations elapsed on the 13th and 15th of February 2024, respectively.

ii. **Upgrade of The Old and New Platforms at the Trade Mark Registry:**

Trade Mark registry is currently working on merging its new and old platforms to streamline the filing process. Trade mark renewals, recordals, etc. amongst other applications are impacted by the upgrade.

iii. **The Trade Mark Registry Organized the Nigeria Intellectual Property Stakeholders Consultative Meeting on 15th February, 2024:**

At the meeting, the

Permanent Secretary of the Federal Ministry of Industry, Trade and Investment as well as the Director (Registrar of Trade Marks) updated stakeholders of the effort the Trade Marks Registry in clearing backlog, improving timely processing of applications and in regular publication of journals. The stakeholders also raised issues which should be addressed by the Trade Mark Registry such as conducting searches manually leading to slow process, storing of trade mark data in disparate data system, significant time spent by staff on administrative task, physical tasks susceptible to damage or loss etc. The stakeholders also proffered recommendation on those issues some of which include to allocate budgetary resources to procure digital tools and software for trade mark registration, provide staff with training on how to use the new digital platforms effectively, convert physical trade

mark records into digital formats, implementation of the new enhanced automation platform, implement measures to protect digital trade mark records from unauthorized access etc. The meeting also had in attendance the technical consultants working on a new filing platform for the Trade Marks Registry.

iv. Trade Marks Registry Practice Directions Committee Successfully Completes First Draft of the Practice Directions for the Trademarks Tribunal:

The Practice Directions Committee coordinated by Mr. Christian Aniukwu has effectively concluded the draft of the Practice Directions. This followed the consideration of comments received from the Drafting Committee Board of Advisors and international IP practitioners who were requested to comment on the draft Practice Directions. The Practice Directions is aimed at curbing the lacuna in the Trade Marks Regulations and bringing the practice at the Tribunal in tandem with modern realities. The Minister of Industry, Trade, and Investment is now to be presented with the draft Practice Direction for approval of the supervising Minister.

B. NATIONAL AGENCY FOR FOOD DRUG ADMINISTRATION AND CONTROL (NAFDAC)

i. Enforcement Actions to Ensure

Compliance with Regulations: On 5th February, 2024, NAFDAC began enforcing the ban of the production of alcoholics beverages in small packs volume of 200ml and sachets. The policy aims to regulate packaging and distribution of alcoholic drinks. The decision to stop the registration of alcoholic beverages in sachet and small volume PET and glass bottles below 200ml was based on recommendation from a high-powered committee of the Federal Ministry of Health, NAFDAC, the Federal Competition and Consumer Protection Commission (FCCPC), and industry representatives. The ban majorly targets products that are pocket friendly and easily carried around, especially by under aged individuals and commercial vehicle drivers. The World Health Organisation has linked harmful alcohol consumption to various health conditions and social problems.

ii. Track and Trace Technology: NAFDAC has implemented the Narcotic Drug Serialization Pilot Project to enhance drug distribution security. This project enhances tracking and tracing of pharmaceutical products from manufacturing plants to end users. Consumers can verify the authenticity of drug products using scanning devices on Android phones.

iii. **Training of Inspection Directorate**

Priority Clients: NAFDAC conducts training for priority clients on the Ports Inspection Data Capture and Risk Management System (PIDCARMS) for priority clients. The purpose of the training was to explain the efficient and seamless port clearance procedures, emphasizing the importance of accurate data entry and right first-time records and accurate data entry.

iv. **Public Alerts:** NAFDAC issued public alerts in January 2024 regarding:

- The sale of falsified mislabelled paracetamol injection circulating in Nigeria.
- The sale of unregistered ZACEF-TZ injection in circulation in Nigeria.

C. **STANDARDS ORGANISATION OF NIGERIA (SON)**

The Standards Organisation of Nigeria (SON) Launches an Innovative E-Demand Notice Platform:

This platform is part of SON's efforts to streamline the payment and receipt process, making it more efficient and transparent. The E-Demand Notice Service Platform is designed to transform Nigeria's business environment by ending office-based processing and promoting the federal government's Ease of Doing Business policy.

D. **NIGERIA CUSTOMS SERVICE (NCS)**

i. **Post Clearance Audit and Authorised Economic Programmes:**

The NCS collaborated with the World Customs Organisation to implement Post-Clearance Audit and Authorise economic operators' programmes which aims to enhance trade facilitation.

ii. **NCS Revamps E-Auction Platform for Transparent Disposal of Seized Goods:**

On 16th January, 2023, NCS unveiled its revamped e-auction platform. The strategic move aligns with the guidelines outlined in the newly enacted Nigeria Customs Service Act, 2023, showcasing the agency's dedication to efficiency and fairness.

E. **FEDERAL COMPETITION & CONSUMER PROTECTION COMMISSION (FCCPC)**

Investigation into Deceptive Pricing at Fast Moving Consumer Goods (FMCG) Stores:

The FCCPC conducted an on-the-spot check at a FMCG store in Abuja leading to temporary closure of the stores due to continued violation involving misleading pricing and lack of transparency. The investigation revealed that the stores displayed lower prices on shelves and charged higher prices at checkout, contravening Section 115 of the FCCPA 2018.



LEGISLATION AND CASE LAW UPDATES

A. DETERMINATION OF DISTINCTIVENESS OF A TRADE MARK: INTERNATIONAL TOBACCO (NIG.) LTD V. BRITISH AMERICAN TOBACCO (NIG.) LTD

The case revolves around an appeal by International Tobacco (Nig.) Ltd (the Appellants), who argue that the gold colour used in their "Tradition" cigarettes pack does not infringe on the registered trade marks of British American Tobacco (Nig.) Ltd (the Respondents), specifically trade mark No. 60722 and No. 56629 related to "Benson & Hedges" cigarettes.

The Appellants contend that Section 16(1) of the Trade Mark's Act limits the exclusive right of the proprietor of a trade mark to the specified colour or colour. Since the Respondents' trade marks were not registered with any colour limitation, the colour of any presentation of the trade mark is irrelevant. The Respondents argue that their trade marks were registered specifically with relation to the colour gold as part of the trade marks, entitling them to exclusive use and protection against infringement. They assert that the gold

colour is an essential component of their registered trade marks.

The Federal High Court and Court of Appeal ruled in favor of the Respondents for the infringement of their trade mark by the Appellants. The Supreme Court analyzed Section 16(1) and concluded that the gold colour was intended to be an essential component of the Respondents' trade mark.

The Supreme Court considered the element of distinctiveness, noting that long or extensive use can confer distinctiveness on a trade mark. The Respondents' gold colour pack, in use since 1973, was deemed to have acquired distinctiveness, while the Appellants' "Tradition" pack, introduced in 2005, lacked such extensive use.

The Court found the Appellants' use of the gold colour pack to be deceitful and confusing in comparison to the Respondents' gold pack, leading to the dismissal of the appeal.



UPDATES FROM OTHER JURISDICTIONS

A. WIPO AND ECOWAS UNVEILS THE AFRICDEEZAY MOBILE APP

The World Intellectual Property Organization (WIPO) and the Economic Community of West African States (ECOWAS) unveiled the AfricDeezayn mobile app on 23rd January, 2024. This app is a pioneering platform dedicated to supporting designers in West Africa, helping them protect and promote their work. It offers a suite of features including an educational hub, inspiration gallery, community forum, and a design protection toolkit.

AfricDeezayn serves as a comprehensive knowledge center providing insights on design laws, industry news, events, and relevant stakeholders. It's designed to facilitate collaboration within the design community and provides a platform for designers to showcase their creations for greater visibility. The app is currently available on Google Play and covers Côte d'Ivoire and Ghana, with plans to expand to other West African countries soon.

This initiative reflects the commitment of WIPO and ECOWAS to empower the

creative sector in Africa by providing tools and resources that enable designers to learn, grow, and connect within the industry.

B. CHINA - PATENT & DESIGN UPDATES:

China has updated its patent and design regulations, which came into effect on 20th January, 2024. The amendments include new requirements for partial design patent filings and empower examiners to initiate an obviousness examination for design patents.

C. INTERNATIONAL PATENT

CLASSIFICATION (IPC): A new version of the IPC (2024.01) became available in English and French and entered into force on January 1, 2024.

D. SOUTH AFRICA COPYRIGHT ACT

CHALLENGED: The constitutionality of South Africa's Copyright Act was called into question in a case involving organizations representing blind and visually impaired people. The Apex court of South Africa ruled that the legislation must be amended within 24 months to remedy unfair discrimination.

E. ANTI-COUNTERFEITING DEVELOPMENTS:

Kenya's Anti-Counterfeiting Authority order that all intellectual property rights for imported goods must be registered with the ACA .

F. LIBYA UPDATES THE REQUIREMENTS FOR FILING TRADE MARKS:

On 17th January, 2024, the Libyan Ministry of Economy issued Resolution No. 26 of 2024 presenting new regulations for Chapter Ten of Law No. 23 of 2010 on Trademarks. The implementing regulations are expected to address operational gaps and play a crucial role in achieving the law's objectives. Notably, the updated regulations include:

- Adoption of the 11th Edition of Nice Classification;
- The introduction of provisions to register and protect sound marks;
- Electronic publication of accepted applications;
- Opposition period shortened from 60 days to 30 days; and
- A revision of the fee structure with increased official fees, new charges, and detailed categorization of renewal fees.
- The regulations are anticipated to come into in effect 30 days

from the date of publication.¹

G. SUDAN TRADE MARK OFFICE RESUMES

OPERATION: The Sudan Trade Marks Office resumed operations on 11 February 2024 after almost a year of disruption due to civil unrest.

H. UNEXPECTED CHANGES TO MOZAMBIQUE'S OFFICIAL FEES:

New official fees in Mozambique are unexpectedly set to come into effect on 26 February 2024. The announcement of these changes was made through an unpublished Government Gazette, dated 29 December 2023, catching local industry stakeholders off guard. The lack of prior communication or disclosure to industry agents, has left local IP firms and businesses grappling with a sudden and substantial increase in costs, of up to 50%. Apart from the increase in costs, there is also growing confusion regarding the specific acts that are now subject to changes. Industry players are actively responding to this unforeseen change by facilitating a workable translation and meticulously examining the new tariffs. The absence of transparency in the communication of these changes raises concerns about the collaboration between regulatory authorities and industry stakeholders.

¹adams.everlytic.net/public/messages/viewonline/TvUa0D97gQWypuCa/Ywl4tXRawyKNhdah



NEWS ABOUT THE FIRM

- A. Our Founding Partner Amala Umeike and Managing Partner Christian Aniukwu** have both been recognised for their outstanding expertise in trade mark law and practice in the esteemed **“World Trade Mark Review 1000”**.
- B. Our Managing Partner, Christian Aniukwu,** was in February appointed the **1st Vice Chairman of the Nigerian Bar Association Section on Business Law Intellectual Property Committee**. The Nigerian Bar Association is the umbrella body of lawyers in Nigeria.
- C. Stren & Blan Partners sponsored the first edition of the Nigeria Data Protection Commission Code4Privacy Hackathon 2024,** at the 3rd National Privacy Week 2024. The event focused on Privacy-First Solutions: Integrating Data Privacy by Design. Our firm is dedicated to fostering technological advancement while prioritizing privacy.
- D. Our Managing Partner will be moderating two table topics at the International Trade Mark Association Conference** to be held in United States of America on the 18th -22nd of May 2024.
- E. Stren & Blan Partners, represented by Omonefe Irabor-Benson and Noble Obasi,** attended the **Africa Tech Summit in Nairobi** on the 14th & 15th of February 2024.
- F. Stren & Blan Partners sponsored the welcome to Lagos event** hosted by the **Delegation of German Industry and Commerce in Nigeria (AKH Nigeria)** in collaboration with the **Nigerian-German Chamber of Commerce (NGCC)**.
- G. As part of the Firm's Corporate Social Responsibility, Stren & Blan Partners, in collaboration with Lagos Food Bank Initiative celebrated the International Women's Day 2024** by sharing food items to the women in the low-income communities. Our firm also gave cash prizes to the winners of sewing, bead making and hair making competition.
- H. On 5th March, 2024, Stren & Blan Partners organized the Horizon 2024 London event themed Navigating Africa's Largest Economic Landscape: Latest Trends and Development.** The event provided ample networking opportunities to connect with fellow professionals, forge new partnership and expand network with industry leaders and experts.



ABOUT STREN & BLAN PARTNERS

Stren & Blan Partners is an innovative and dynamic Law Firm with a compelling blend of experienced lawyers and energetic talents. We are focused on providing solutions to our clients' business problems and adding value to their businesses and commercial endeavours. This underpins our ethos as everything we do flows from these underlying principles.

Stren & Blan Partners is a full-service commercial Law Firm that provides legal services to diverse local and multinational corporations. We have developed a clear vision for anticipating our clients' business needs and surpassing their expectations, and we do this with an uncompromising commitment to Client service and legal excellence.

MARKET RECOGNITION

Our confidence and pride are in our clients' satisfaction, and we consistently reassess our objectives in alignment with our clients' business needs. Unsurprisingly, in the 1st quarter of 2024, our firm was recognized in the esteemed **'World**

Trademark Review 1000'. Our firm was also shortlisted for the **'Firm of the year award by Managing IP'**. The esteemed recognition highlights our dedication to excellence and innovation in our fields of practice.

STREN & BLAN PARTNERS

3 Theophilus Orji Street, Off Fola Osibo Road, Lekki
Phase 1, Lagos, Nigeria

+234 (0)702 558 0053

www.strenandblan.com
contact@strenandblan.com
@strenandblan

