



Ghana – brand protection due diligence

Background

A Danish food manufacturer has been operating in Ghana for several decades. The company's mission is to provide food products in line with the United Nations' Sustainable Development Goals.

Action undertaken

Unfortunately, the company was accused of copyright infringement for using copyrighted work in its advertisements without the consent of the rights holder. The matter was settled but left a dent in the company's image.

The company has been proactive in securing and enforcing its intellectual property rights (IPR), which includes its trade marks and certification marks. Consequently, it has not faced significant infringement issues. However, it has faced an avoidable copyright infringement issue by failing to carry out adequate due diligence regarding the ownership of copyrighted work used in its advertisements. In Ghana it is common practice for businesses to outsource their advertisements to advertising companies for various reasons. However, it is prudent to seek indemnities from such advertising companies against potential IPR infringement and to further ensure that all relevant licences have been obtained from rights holders prior to use.

Lessons learned

- It is very important to include the registration of your IPRs in your business' IP strategy if your business plan includes accessing the Ghanaian market. This will assist in maximising protection of your IP and help you with enforcement of your IPRs.
- Build strong brands and be vigilant in protecting and enforcing your rights in the brands. This will help create well-known trade marks within the geographical area and ensure you obtain maximum protection for your brands. Strong brands in Ghana are also protected under the Ghanaian Protection against Unfair Competition Act.
- Register your IPRs with the appropriate statutory institutions in Ghana and police your IPRs with assistance from professionals.
- Foreign IP rights holders need to be represented by IP attorneys who are practising legal practitioners within the jurisdiction and recognised by the Registrar of Trademarks, Patents and Industrial Designs, as well as the Copyright Administrator of Ghana. It is always advisable to engage the services of skilled and experienced IP attorneys.

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