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Managing Intellectual Property

The Global IP Resource

THE BIG TRADEMARK ISSUES IN ASIA AND AFRICA

22 May 2016 | James Nurton, Orlando

James Nurton previews some of this week's sessions on trademark issues in Asia and Africa, and introduces related INTA events

A panel at the INTA Annual Meeting tomorrow will focus on anticounterfeiting strategies in south-east Asia and Africa. "These are two massive regions, so we can't cover everything –but we hope to provide the audience with key strategies and pointers for these important areas," says Lara Kayode, of O Kayode & Company in Nigeria, who is moderating the session.

She emphasizes the importance for brand owners of looking at different means to tackle counterfeiting. For example, in some countries, regulatory legislation may be more up-to-date and enforcement agencies better resourced than police or the courts. "Going to the Regulatory Body to attack counterfeits may be the best option in some cases," says Kayode. Regulatory bodies may also be better able to deal with issues such as relabeling/repackaging and forged date codes or authorization certificates.

One of the speakers on the panel is Kingsley Ejiofor of the National Agency for Food and Drug Administration and Control (NAFDAC) in Nigeria. Speaking to the *INTA Daily News*, he acknowledged that "the incidence of counterfeiting in Africa is higher than in developed countries" but said that agencies such as NAFDAC are making progress: "There have been eight or nine cases in the federal courts in Nigeria recently. One resulted in a five-year imprisonment. Another led to a seven-year sentence."

He said such sentences, combined with the destruction of counterfeit products and other penalties, have helped to deter counterfeiters: "I saw one criminal and he was in tears when he realized the implications of what he had done." But he added that effective enforcement will require much bigger fines to be issued, to reflect the scale of the gains that counterfeiters make.

Another speaker on the panel, William Mansfield of ABRO Industries, Inc will bring first-hand perspective from a U.S. company that sells a lot of products in Africa, while Nick Redfearn of Rouse & Co International has the task of providing an overview of developments and strategies throughout southeast Asia.

Kayode says that the biggest targets for counterfeiters include western brands in the food and fashion industries, electrical goods and car parts, as well as pharmaceuticals: counterfeit malaria and asthma medicines are often discovered. But she adds that one emerging trend is the counterfeiting of African fashions, which are going through a Renaissance in Africa: hollandais fabric (pictured) is a particular target of overseas counterfeiters.

Asked what brand owners can do to improve enforcement, Ejiofor emphasizes sharing information and collaborating with agencies, helping with training of judicial officers and promoting technology such as authentication services to sort genuine from fake products. For overseas investors in Africa, Kayode warns against working with distributors who you don't know well, and ensuring you do due diligence on local partners: "Before you start working with distributors, do your homework—just like you would anywhere else."

CM21 Anticounterfeiting Strategies in South East Asia and Africa takes place tomorrow 11:45 am to 1:00 pm

Advertising laws in Asia

Another session tomorrow will look at how advertising laws impact brand owners in Asia's large consumer markets, with speakers from China, India, South Korea, Japan and the United States. These markets—which span several billion people—have growing middle classes that are becoming increasingly sophisticated consumers. One result of this is that advertising laws and regulations are tightening up.

Specific issues due to be addressed include the recently revised Chinese Advertising Law, comparative advertising, the role of trademark law and how advertising is treated in the digital and analogue spheres. Speakers will also give examples of recent case studies in each jurisdiction.

During the panel there will be discussion of specific industry sectors, including tobacco, alcohol, medication, educational services, financial investment services and advertising targeting minors, and examples of specific cultural taboos in certain jurisdictions.

RM20 Regional Update: Asian Powerhouses—Buy, Buy, Buy—How Advertising Laws Impact Brand Owners in the Large Consumer Markets of Asia – takes place tomorrow from 11:45 am to 1:00 pm.

Reaching out in Asia

The past few months have seen lots of INTA activity throughout Asia. In November last year, INTA held an Anticounterfeiting Policy Dialogue on Customs Practices in Putrajaya, Malaysia. INTA was also represented at the ASEAN IPA Annual Meeting in Kuala Lumpur, Malaysia in March this year, which was attended by government officials and practitioners from throughout the region.

Singapore hosted INTA's Designs Conference in February, which was organized jointly with AIPPI, followed by an INTA-BASCAP Workshop in Intermediaries and Rights Holders—Working Together to Stop Counterfeiting and Piracy. On March 4 INTA's Unreal Campaign held its first student engagement campaign in Asia, at the Nanyang Girls' High School.

In March, a delegation visited India, for meetings with government officials and other organizations, and a workshop on Strategic Brand Management was held in Mumbai.

"Building Africa with Brands", INTA's first conference to be held in Africa for 20 years, will take place in Cape Town, South Africa from September 1 to 2 2016. It will be preceded by the INTA-BASCAP Workshop: Intermediaries and Rights Holders—Working Together to Stop Counterfeiting and Piracy. For more details and to register, please visit the INTA registration desk or inta.org/2016Africa

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