INTELLECTUAL PROPERTY

Kenya: SONY is not well-known

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In Sony Corporation vs Sony Holdings Limited the Kenyan High court dismissed the Japanese corporate's trade mark opposition to trade mark applications filed for SONY in classes outside of those already registered by Sony Corporation, the court finding that its SONY mark is not well-known in Kenya. The burden of proof for well-known status therefore remains high, with the courts requiring substantial evidence taking into account a range of factors.

The general principle for Paris convention member countries is that a mark granted well-known status enjoys broader protection than an ordinary mark in that country. Section 15A of the Kenyan Trade Mark Act grants protection to well-known marks in terms of which it is necessary to provide evidence of sufficient knowledge of the mark within the relevant sector. A foreign reputation does not satisfy the criteria as it must be proved that this reputation extends to Kenya.

Even though the Sony Corporation relied on its extensive sport sponsorship and world-wide trade mark registrations for the mark SONY, the court didn't regard this as proof of repute in Kenya, only accepting evidence of brand value in Kenya which alone did not elevate the SONY trade mark well-known.

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