

ETHIOPIA

Intellectual coffee

Government dispute with global coffee chain continues to brew over intellectual property rights



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Ethiopia has been cultivating and perfecting unique and high-quality coffee for decades. Brands such as Harar, Sidamo and Yirgacheffe are renowned throughout the world, with the distribution of these coffee beans attracting some of the highest distribution margins throughout the world of coffee.

However, as little as 5%-10% of the retail value of the coffee goes back to Ethiopia. Almost no other producer of fine coffee anywhere in the world has so much of their product value absorbed by distribution.

In attempts to harness the potential of these brands and redress this injustice, the Ethiopian Intellectual Property Office and other stakeholders, including unions of Ethiopian coffee cooperatives, have embarked upon a plan for brand ownership and management, using a trademark and licensing strategy to try to increase the margins received by Ethiopian producers for their coffee.

Trademarks are being sought across the world for the Harar, Sidamo and Yirgacheffe brands. Once obtained, these marks will then be licensed to international importers and distributors. When this registration programme is completed, Ethiopia will be in a better position to assert control over these brands and be able to use this control to alter the distribution margins currently in place to the benefit of Ethiopian producers.

To date, applications have been filed in several countries. A number of these trademark applications have already been granted, with Yirgacheffe, for example, a registered trademark in the US and the European Union (EU).

Additionally, Ethiopia already enjoys common-law (unregistered) rights in its coffee brands in the US and many other countries, through use of those brand

names in commerce.

This approach to redressing the inequalities experienced by local producers has brought Ethiopia — the birthplace of coffee — into direct conflict with global coffee chain Starbucks.

Starbucks has claimed that Ethiopia's attempts to licence the trademarks for these brands is illegal — a claim that has since been withdrawn — but apparently still believes it is inappropriate and that Ethiopian producers would be better protected through the use of protections for geographic indications.

Ethiopia argues, however, that obtaining trademark protection is the best way to protect the two million subsistence-level farmers from exploitation and to increase their share of the profits generated from their hard work.

By seeking trademarks in these brands, the Ethiopian Government plans to require international distributors to obtain permission before using the names in their branding. The Ethiopian Government is not charging a royalty for the use of the trademarks — it merely asks that distributors prominently label the beans with the country of origin and assist in the promotion of Ethiopian fine coffee.

The debate therefore seems set to continue on whether the birthplace of coffee has the right to generate more value for its coffee producers through the use of intellectual property (IP) rights.

Oxfam has claimed that Starbucks was depriving farmers in Ethiopia of \$90m (£46.7m) a year by opposing the registration of these trademarks. Starbucks has indicated that it will be increasing its purchases from East Africa. Some observers have noted that Starbucks is in need of fine coffees from East Africa as it is approaching the limit of supplies from Central America.

The Arnold & Porter team representing Ethiopia comprises Robert Winter, Roberta Horton and Anna Manville in the US, with Simon Bennett in the firm's London office. The work is being undertaken on a pro bono basis. The team at Light Year IP — a non-governmental organisation that assists developing countries with IP business strategies — is led by Ron Layton. ■

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The Ethiopian Government plans to harness the value of its coffee brands and correct the injustice currently suffered by its coffee producers