

## ***Generic Trademarks in Action - the Two-Edged Sword of Branding Success***

***By***

**Chanda N. Tembo**

*School of Law*

*University of Zambia,*

Email: *chanda.tembo@unza.zm*

### **Abstract**

A trademark is an economic tool created and recognised by law to distinguish goods and services of a business from the goods and services of other businesses. Distinguishing goods and services is key for preventing consumers from being misled or confused about the nature and origin of the goods or services particularly from competing businesses. The important element that enables this ability to distinguish goods and services is the concept of distinctiveness in trademark law. This paper asks the question whether ‘distinctiveness’ can be a two-edged sword for successful branding. In answering the questions this paper employs a doctrinal approach underpinned by economic theory in considering how ‘genericness’ is a factor that can lead to loss of distinctiveness of a trademark and the legal and economic implications of such loss on the affected trademark.

**Key Words:** Generic Trademarks, distinctiveness, economic theory, common word and information monopolies

## Introduction

This article is inspired by a picture of the beverage coffee, manufactured by Nestle that is sold under the trademark ‘Ricoffy.’ In the picture, the beverage was displayed as ‘Nestle Ricoffy makes great tea.’ Notably, ‘Ricoffy,’ though a beverage, is not tea. The reference to ‘Ricoffy’ as a tea may have been advertent or inadvertent. However, interchanging names for products usually happens either when the product enjoys a period of monopoly as a solo product on the market or where a product benefits from market dominance as a result of market monopoly or successful branding and stands out among other competing products as either easily accessible or most preferred product. The picture in issue was apparently taken from a Spar shop in Zambia and was widely circulated on social media such as ‘Facebook’ and ‘WhatsApp’ earlier in the year. Interchanging the use of trademarks or brand names of products for alternative and competing products with a different brand name or trademark is widespread in Zambia. For instance, it is not common in Zambia for people to refer to ‘Colgate’ a tooth paste manufactured by Colgate-Pamolive Company as an inclusive trademark that could also refer to competing tooth pastes such as ‘Aquafresh’ manufactured by GlaxoSmithKline; ‘Pepsodent’ manufactured by Unilever Company; or ‘Sensodyne’ also manufactured by GlaxoSmithKline. This is unexhaustive list of examples. Similarly, it is not common for many Zambians to use the mark ‘Surf’ for a washing powder and laundry detergent in reference to and inclusive of other competing laundry detergents such as ‘Omo’ (which is an acronym for the ‘Old Mother Owl.’ See the Unilever website <[www.unilever-ewa.com](http://www.unilever-ewa.com)>) or ‘Sunlight’ both manufactured by the Unilever company. Interestingly, neither is it uncommon for people to simply interchange the use of the word ‘tea’ for ‘coffee’ and vice versa. The problem is that in trademark law such dominance may lead to loss of ‘distinctiveness’ and loss of

a proprietary and economic interest over a mark, thus defeating the whole purpose of trademarks.

### **What is a trademark?**

Trademarks as private and exclusionary property play a key role in communication of information as they facilitate purchase decisions in the course of trade. As communication of information tools trademarks play the economic function of identifying and distinguishing goods of one undertaking from goods of a competing undertaking (Bastos and Levy, 2012). This is done by conveying information through the mark about quality or other attributes of goods or services being sold. This information will also play the additional role of reminding consumers of their past experience with the goods or services sold under the affected mark. So a positive experience may be persuasive about future purchases while a negative experience may dissuade future purchases. A trademark is therefore granted legal protection because of its ability to convey economic information in order to enhance efficiency in the process of conveying information and facilitating purchase decisions in the course of trade (Ramello, 2006: 549). An undertaking in this respect includes a trader, proprietor, franchisee, licensee, business or manufacturer. In Zambia trademarks are derived from marks which are defined as including a “*device, brand, heading, label, ticket, name, signature, word, letter, numerical or a combination thereof.*” (Section 2, Trademark Act, Cap 401 of the Laws of Zambia ‘hereinafter referred to as Cap 401’). A trademark can also be represented in the form of a colour or a combination of colours (Section 21, Cap 401). Contemporary marks include olfactory, sound and taste marks however, such marks are not protected in Zambia. Meaning that for Zambia, only visually perceptible marks are registrable.

The use of marks in the course of trade led to the formulation of the term trademarks. Under the Trademarks Act, a trademark is defined as a mark “*except in relation to certification marks, which is used or proposed to be used in relation to goods to goods for purposes of indicating for, or so as to indicate, a connection in the course of trade between the goods and some person having the right either as proprietor or as a registered user to use the mark, whether with or without any indication of the identity of the person.*” (Section 2, Cap 401). Person in this sense being a natural person or legal person such as a business or legal entity. Certification marks are excluded because they are utilised communally and collectively by the members of an association or cooperative. (See Section 42, Cap 401). A mark also includes signs. Notably a sign can be anything that represents, indicates or stands for something (Ramello, 2006:547). Pursuant to Section 2, of the Trademarks Act, examples of signs include words which would include forenames, surnames, company names, business names, geographical names or any other word or set of words which words may be invented, unvented or slogans.

Nevertheless in general a mark will not be registered if it causes confusion or misleads the general public (Sections 9, 16 and 17 Cap 401; see also *Suleman Ismail Limbada vs The Registrar of Trade Marks*, 2012/HPC/0571). By implication, inability to cause confusion or deception means a mark must have the quality and ability to be distinguished from marks of competing goods and services. In law this is reflected as either the mark having the ‘capability to distinguish’ (Section 15, Cap 401; see also Article 15(1) of the World Trade Organisation’s Agreement on Trade Related Aspects of Intellectual Property, 1999) or that the mark is ‘inherently capable of distinguishing’ (Section 14, Cap 401) goods and services of competing businesses. Section 15 of the Trademark Act requires that marks registerable under Part B of the Trademark register “*must be capable, in relation to the goods in respect of which it is*

*registered or proposed to be registered, of distinguishing goods with which the proprietor of the trade mark is or may be connected in the course of trade from goods in the case of which no such connection subsists, either generally or, where the trade mark is registered or proposed to be registered subject to limitations, in relation to use within the extent of the registration”* This means that a marks ability to distinguish can increase with use over time. However, for trademarks registerable under Part A of Act the standard with regard to the ability to distinguish is higher as the law requires under Section 14(2) of Trademark Act that such marks must be “*adapted in relation to goods in respect of which a trademark is registered or proposed to be registered, to distinguish goods with which the proprietor of the trademark is or may be connected in the course of trade ... .*” A mark is then considered to be adapted if it “*...contains or consists of at least one of the following essential particulars: (a) the name of a company, individual or firm, represented in a special or particular manner; (b) the signature of the applicant for registration or some predecessor in the business; (c) an invented word or invented words; (d) a word or words having no direct reference to the character or quality of the goods and not being, according to its ordinary signification, a geographical name or a surname; or (e) any other distinctive mark, but a name, signature or word or words, other than such as fall within the descriptions in the foregoing paragraphs (a), (b), (c) and (d), shall not be registrable under the provisions of this paragraph except upon evidence of its distinctiveness*” (See Section, 14(1)(a) – (e): Cap 401).

## **The Economic Theory**

As discussed below trademarks and brand names play a key functional role of educating consumers on the source, quality and nature of products, goods and services. Mark’s also play the role of adding to the economic value of products, goods and services and

to protect this economic value from misappropriation by competing businesses in the course of trade. In this regard, the role of trademarks as economic tools is intrinsically linked to the economic theory, which pertains to the study and explanation of commercial activities of businesses and how an economy functions and works (Thornton). This is done for purposes of formulating appropriate policy and legal strategies for optimising markets for both economic and welfare gains (Ramalla and Silva, 2009:2). In an information age, the economics of information and the regulation of knowledge and information in the market place is key. It is of particular importance to understand what information through branding is available for appropriation by businesses as commercial signals in the course of trade to avoid the market failure of either confusing, misleading or deceiving consumers as to the nature of the goods and their origin (Ramello and Silva, 2006). As part of the economics of information dynamics this paper, focuses on how the ‘appropriability’ of registered trademarks as commercial signals in the course of trade may be lost due to loss of distinctiveness and the legal and economic implications of such loss.

### **Generic words as ‘Inappropriable’ Information and ‘Genericness’**

The economic theory presupposes that one of the main efficiency objectives of trademarks, as a communication tool would be to minimise the cost of information in the course of trade (Ramello, 2006: 10). This is in relation to the cost of information to businesses related to the use of existing common words as branding tools for goods and services. It would follow from this argument that a common word used as a noun for something or a product or as an adjective to describe something or a product means that it cannot be ‘appropriated’ and monopolised through trademarks and thus available for all businesses to use in the course of trade. Otherwise, if

common words are monopolised through appropriation in the course of trade this will increase the cost of information for other businesses who in turn must find alternative expressions through words or signs to identify or describe the same type of products whether goods or services. The availability of common words for all to use in the course of trade was critically overlooked in the case of *DH Brothers Industries (PTY) Limited vs. Olivine Industries (PTY) Limited* Supreme court Judgement, SCZ Judgement No.10/2012 when the courts tested whether one business with prior use since 2003 of the unregistered common word ‘Daily’ could prevent another business from registering the mark.

It is important to state that common or generic marks that are descriptive can with aggressive advertising or use acquire distinctiveness. In this case enhanced distinctiveness is said to be acquired with use, despite its descriptiveness or suggestiveness, when the mark acquires the capacity to distinguish a product from other similar and competing products then that generic mark if unregistered would be said to be capable of constituting a trademark. In Zambia a good example is the word ‘Manzi’ in the trade mark ‘ManziValley’ owned by Natural Valley Limited. ‘Manzi’ in some local Zambian languages literally means water. ‘Water’ or ‘Manzi’ are both common words and thus not available for absolute appropriation or monopolisation through trademarks. The Trademarks Act requires that where a common word is allowed to be registered the trademark proprietor must acknowledge and issue a disclaimer to the effect that the proprietor is aware the mark involves a common word and that the proprietor cannot restrict others from using the mark in general or in the course of trade (Section, 19: Cap 401 Trademarks Act). However, with use the distinctiveness of a descriptive or suggestive mark ‘Manzi’ has been greatly enhanced. If it had not been registered with its enhanced distinctiveness the mark would be capable of constituting a registrable mark. With use the ‘Manzi’ mark now

has the capacity to distinguish ‘Manzi’ water from other competing mineral water on the Zambian market.

Common words in trademark law are also known as generic words or marks. This paper will therefore refer to common words as generic words or marks. Additionally, this paper applies the ordinary English meaning to the word generic. Something is generic if it is “shared by, including or typical of a whole group” (Oxford Advanced Learner’s Dictionary, 2006 : 620). Such words are therefore unavailable for monopolisation since the words are available for all to use. Effectively from a legal standpoint no one person or business has the right to appropriate the word and stop others from using a common or generic word on similar products or goods whether in the course of commerce or otherwise. Under the Trade Mark Act of Zambia, Cap 401 of the Laws of Zambia on application for the registration of a trademark if the mark contains any word that is common the Trade Mark Registrar, will require the proprietor of the mark to enter a disclaimer notifying the public that the proprietor is aware that the proprietor has no exclusive right or monopoly over the common word and thus will have no right to restrict or prevent others in Zambia from utilising the generic word. (See Sections 19, 36, and 39(1)(e): Cap 401).

To illustrate this consider the example of the word ‘Salt.’ ‘Salt’ is scientifically known as sodium chloride and is the common name for the whitish substance added to food to preserve food or enhance the flavour of food. Salt’ is the common name or the generic word for sodium chloride and there is really only one way of describing ‘Salt.’ However, for purposes of trade different producers or merchants are free to market and describe ‘Salt’ as the product commonly known as ‘Salt.’ The competing producers or merchants will also be free to market the product ‘Salt’ under an additional but different brand name or trademark specific to that trader, producer or merchant. The more specific brand name or trademark is what will be used to distinguish salt produced by manufacturer or trader A from manufacturer or



trader B or C.

### **Historical Perspectives**

It is argued that the One Party State Rule that was introduced in Zambia 1972 (Gertzel *et al.*: 1984: 2) and lasted until the early 1990s presented an interesting context for sanctioning information monopolies in commerce. It is further argued that from an economics of information perspective the information monopolies created during this period greatly impacted on the development of generic marks that arose as a result of both registered and unregistered marks enjoying long periods of monopolies. This was compounded by the lack of competing and alternative goods or products on the Zambian market. These two factors may have led to some marks losing their distinctiveness and becoming generic. Accordingly, these economic conditions prevailing in Zambia may have enabled the phenomenon of interchanging the brand name or trademark of one product and applying that mark on another especially following the nationalisation of foreign multinational and private corporations during the One Party State era of the UNIP government led by then president Kenneth David Kaunda. Nationalisation was a national policy and legal strategy of the One Party State for taking back control over the resources of Zambia after independence from foreign interests to native Zambians (Burdette, 1977). This strategy is commonly referred to as ‘Zambianisation’ (Rakner, 2003: 10). What was characteristic of the Zambian economy during this period of state control over resources and businesses was the lack of competition for products and businesses. Lack of competition was a by-product of the state managing all affairs of the state including the economy during a failing economy on a tight budget.

So many of the state owned businesses and the products they produced or sold enjoyed a market monopoly during this period. The implication was that there was usually only one type of product on the market. Here are a few examples, bread produced by Super Loaf

Baking Enterprise a subsidiary of the parastatal company Industrial Development Corporation (INDECO) under the brand name ‘Super loaf’ or ‘Supa Loaf’ was predominantly the only type of bread sold in Zambia. Effectively most types of bread was referred to as ‘Super loaf.’ The same would apply to other products such as detergent powder there was only one type of detergent powder sold under the brand name ‘Surf.’ For tooth paste the tooth paste that had a market monopoly was ‘Colgate.’ Even after the Zambian economy was liberalised to open up the market to competing products many competing tooth pastes with their own brand names or trademarks in Zambia are referred to as ‘Colgate.’ The same applied to the carbolic bar soap ‘Chic,’ this bar soap also enjoyed a period of monopoly consequently the brand name ‘Chic’ was later informally applied to new carbolic bar soaps introduced on the Zambian market. For detergent paste the trademark that enjoyed a monopoly for some time was ‘Dynamo’ which at the time was manufactured by Colgate Palmolive Limited. For a long time many different detergent pastes were referred to as ‘Dynamo.’ Anecdotally it may be argued that one detergent paste that has broken through this mould is the detergent paste marketed under the trademark ‘Boom’ produced by Trade Kings.

At an international level a similar phenomenon can be observed for brand names or trademarks that stood out by virtue of dominance or monopoly especially for those marks that introduced new products for the first time and enjoyed a period of monopoly before competing products or alternatives were introduced. Here are some of the interesting examples of marks that have lost distinctiveness and have now become generic. ‘Asprin’ is one of them. ‘Asprin’ is the trade mark for acetylsalicylic acid marketed by the Bayer Pharmaceuticals. (World Heritage Encyclopaedia) Asprin’ is a pharmaceutical drug commonly used for treating minor pains and for reducing fever. ‘Asprin’ can also be used as an anti-inflammatory drug and for thinning blood. Another is the mark ‘Thermos.’ ‘Thermos’

was a trademark for a vacuum flask but was declared generic in 1963 in the United States. (World Heritage Encyclopaedia). Other marks that have become generic are ‘Refrigerator’ and ‘fridge’, ‘computer’, ‘cellophane’ for a transparent sheet made from regenerated cellulose and is still registered as a trademark by a company called Innovia Films Limited in Europe and other countries. ‘Hoover,’ the first upright vacuum cleaner was invented in 1907 by Murray Spangler and the patent sold in 1908 to William Hoover as an electric suction sweeper. (Encyclopedia.com) William Hoover later marketed the vacuum cleaner as a Hoover Suction Sweeper and that is how the mark ‘Hoover’ was born. ‘Video tape’ as a mark was originally trademarked by a manufacturer of audio and video tape recorders known as Ampex Corporation (World Heritage Encyclopaedia). ‘Escalator’ for a *“moving staircase made up of a connected circulating belt of steps driven by a motor to convey people between floors in building with more than one floor.”* The mark ‘Escalator’ was originally registered as a trademark by Otis Elevator Company. ‘Kerosene’ for *“a light fuel oil obtained by distilling petroleum and used especially in jet engines and paraffin oil”* was first used in 1852.

More contemporary examples of trademarks that have either been cancelled or expired and have become generic include the marks such as ‘App’ and ‘App store’ for the digital distribution platform both claimed by Apple Incorporation were cancelled and so not under trademark protection. Other marks include ‘ZIP code’ was a mark originally registered as a service mark for the US postal service and ‘Zipper’ which was used for rubber boots and trademarked by B.F. Goodrich. ‘Onesies’ is another trademark owned by Gerber Products Company for a one piece adult body suit (World Heritage Encyclopaedia).

While other examples of marks that are usually used as generic marks but are still under trademark protection are ‘Xerox’ for photocopying machines in reference to a photocopier or making

Journal of Lexicography and Terminology, Volume 1, Issue 2 photocopies. ‘Sellotape’ is a mark owned by a company known as Henkel Consumer Adhesives and the mark ‘Post-it’ for (World Heritage Encyclopaedia).

## **Distinctiveness**

In the context of trademark law ‘distinctiveness’ is the ability to distinguish and differentiate goods and services of one business from competing businesses (Section 14(2): Cap 401; Taubman, et al., 2012:57). Marks are also considered distinctive with respect to a class or classes of products because pursuant to Section 8, of the Trademarks Act, trademarks are registered in respect of particular goods or classes of goods. Accordingly the Trademarks Act provides a classification for goods for purposes of registering marks (Section 81(2)(b): Cap 401) as outlined in the Third and Fourth Schedules annexed to the Trademark Regulations) Regulation 5 of the Trademark Regulations). The same mark can be used on different products classified under different classes but an application for registration for each class shall be treated as separate under Regulation 26, of the Trademark Regulations. For example class 1 under the Third Schedule applies to chemical substances used in manufacturers, photography, or philosophical research, and anti-corrosives. While class 3 applies to Chemical substances prepared for use in medicine and pharmacy and class 15 applies to glass. It follows that the more descriptive a mark is of the class of application the mark will be considered to be less distinctive.

As demonstrated above distinctiveness can be inherent or acquired with time. The word ‘Apple’ if applied to actual apple fruits would be descriptive or suggestive of the product being sold and so would not be considered to be distinctive at all since the mark would be describing or be suggestive of the product being sold. However, the use of the mark ‘Apple’ on computer products

is not all descriptive or suggestive of the product or goods in issue and so would be considered arbitrary and more distinctive. In fact with the case of the ‘Apple’ mark the mark has with time increased in distinctiveness. Because most consumers now associate an apple with one bit as representative of computer products produced by Apple Incorporation. Also the proprietor of the registered Apple mark has the right to prevent others from applying the ‘Apple’ mark to similar or identical computer products of a competing business. But would not have the right to restrict members of the public from the using the word ‘Apple’ or restricting other businesses from using the word ‘Apple’ non-computer related activities. As use of the ‘Apple’ mark on competing computer products by competing businesses would constitute unfair business practices by the competing business and lead to confusing consumers as to origin and probably the quality of the products in issue. Such unfair practices are therefore likely to prejudice the economic interests of Apple the company. As consumers may purchase competing computer products with an ‘Apple’ mark thinking they are purchasing the products from the Apple Incorporation causing economic losses of the Apple Incorporation.

### **The Significance of the Distinctiveness Criteria**

Since the main function of trademarks is to convey information with economic significance the aspect of ‘distinctiveness’ is fundamental. Essentially, from the above discussion there are limitations on trademarks that are registrable in Zambia under the Trademarks Act. From a substantive perspective the primary focus of the law on protectable trademarks is on the criteria of ‘distinctiveness’ which is either inherent or acquired. The element of distinctiveness requires that a trademark as a sign imposed on a product or service must be capable of distinguishing products or services of one business from another business. Lack of distinctiveness does not necessarily disqualify a mark

from registration under the Act. A mark will however be disqualified from registration under any register of the Trademark whether it is distinct or lacks distinctiveness if it will deceive, mislead or cause confusion in the public as regards the origin of the products. But lack of distinctiveness may impact the register upon which a mark maybe registered and less distinct marks are registered under Part B of the Trademark Act (Section, 15: Cap 401) while marks that are inherently distinct are registered under Part A of the Trademark Act (Section, 14: Cap 401).

### **Acquiring Genericness or Loss of Distinctiveness**

Interestingly by implication when a brand name or trademark stands out by its ability to replace other brand names or trademarks representing similar and competing products, that in itself is evidence of the marks enhanced distinctiveness or ability of the mark to raise its distinctiveness. The problem is that at the height of distinctiveness the reverse can occur and a mark can lose the distinctiveness it has acquired. The economic implications of such loss of distinctiveness means that the exclusive proprietor interest in the mark will be lost and the word as a mark migrates from a private realm into the public domain. Migration into the public domain renders the mark available for all to use without restriction and use would not amount to trademark infringement. It follows that from an economic perspective loss of distinctiveness means that a trademark losses its economic utility to a business. Consequently, when a mark loses its economic utility it loses its legal vitality for justifying the renewal of a term of protection once the term of protection for the affected trademark expires.

In many cases where a brand name or trademark has been replaced by other competing brand mark products and services, consumers may no longer relate to the dominant mark as an identifier of products of

one business, but rather see the dominant mark as representing either the name or description of a type of product or service in general. This may occur especially through dominance e.g. of a trademark as was the case with the mark ‘Surf’ (locally pronounced as ‘Safu’) referred to above or where the product is the first of its kind on the market and no competing products or service exist as was the case in the case of marks such as ‘Fridge’ ‘Refrigerator’ and ‘Computer’. In which case the mark serves both the purpose of naming a product or service and distinguishing the source. Distinctiveness of a trademark is important right from the beginning in terms of the first registration. But it is also possible for distinctiveness to be acquired and for distinctiveness to increase with time and use of the marks. So distinctiveness is what creates property trademarks and justifies exclusion in terms of use to protect the economic interests of the proprietor of a trademark.

### **Preventing Loss of Distinctiveness**

Because there are legal and economic implications for trademark proprietors in the event of loss of distinctiveness of their trademarks. Preventing loss of distinctiveness must form part of an undertakings business strategy to prevent loss of distinctiveness. To prevent loss of distinctiveness trademark proprietors have to take concerted efforts to inhibit the rise in dominance of a mark to point were the mark takes on a new or added role of representing either the name or description of a type of product or service in general to which it is applied. It is imperative that businesses adopt intellectual property policies that incorporate business strategies for preventing the unauthorised use of registered marks and to prevent consumers interchanging a mark in order to avoid the mark becoming generic through for example advertising to make consumers aware of the marks distinguishing features and its connection to the proprietor in addition to intellectual property enforcement to protect the trademark from migrating into the public domain.

## **Conclusion**

This article sought to assess whether ‘distinctiveness’ in trademarks can be a two-edged word for successful branding. Successful branding can expedite enhancement of distinctiveness of marks and the creation of information monopolies over marks thus creating opportunities for proprietors to derive economic benefits from protected marks for their businesses. However, information monopolies can also operate as threats to the distinctiveness of marks and the economic utility of such marks to businesses once the proprietary interests over a mark is lost. The article found that distinctiveness that leads to market dominance may lead to the migration of protected marks into the public domain. Such migration has negative legal and economic implications for businesses. It is therefore, recommended that businesses adopt intellectual property policies that incorporate strategies for preventing marks from losing their economic utility by becoming generic through the effective use of advertising and by enforcing their intellectual property rights in order to prevent trademarks as economic tools from migrating into the public domain.

## **References**

- Burdette, M. M. (1977) Nationalization in Zambia: A Critique of Bargaining Theory, 11(3), *Canadian Journal of African Studies*, 471-496.
- Encyclopedia.com, accessed at <<http://www.encyclopedia.com/social-sciences-and-law/economics-business-and-labor/businesses-and-occupations/hover-company>>
- Gertzel, C. J, Baylies, C. L, Szeftel, M., (eds) (1984) *The Dynamics of the One-Party State in Zambia*, Manchester University Press.
- Rakner, L., (2003). *Political and Economic Liberalisation in*



- Zambia 1991-2001, available at <[http://saipar.org/wp-content/uploads/2015/12/Political-and-Economic-Liberalisation-in-Zambia\\_Lise-Rakner.pdf](http://saipar.org/wp-content/uploads/2015/12/Political-and-Economic-Liberalisation-in-Zambia_Lise-Rakner.pdf)>
- Ramello B.G. (2006). What is in a Sign? Trademark Law and Economic Theory, *Journal of Economic Surveys*. 20(4), 547-565,547.
- Ramello, G.B. and Silva, F., (2006). Appropriating Signs and Meaning: The Elusive Economics of Trademarks, available at <<http://citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.336.7318&rep=rep1&type=pdf>>
- Taubman, A., Wager, H., and Watal, J., (2012) A Hand book on the WTO TRIPS Agreement, Cambridge University Press.
- Thornton M., (ed), An Essay on Economic Theory, An English Translation of Richard Cantillon's *Essai Sur La Nature Du Commerce EnGénéral* available at <[https://mises.org/system/tdf/An%20Essay%20on%20Economic%20Theory\\_2.pdf?file=1&type=document](https://mises.org/system/tdf/An%20Essay%20on%20Economic%20Theory_2.pdf?file=1&type=document)> last accessed on 08/10/2017
- Tordoff, W., (1980) Administration in Zambia, Manchester University Press.
- World Heritage Encyclopaedia, List of Generic and Genericized Trademarks' accessed at <[http://self.gutenberg.org/articles/eng/List\\_of\\_generic\\_and\\_genericized\\_trademarks](http://self.gutenberg.org/articles/eng/List_of_generic_and_genericized_trademarks)> List of Cases referred to: *DH Brothers Industries (PTY) Limited vs. Olivine Industries (PTY) Limited* SCZ Judgement No. 10/2012 (reported/unreported) *Suleman Ismail Limbada vs The Registrar of Trade Marks*, 2012/HPC/0571.