

COFFEE TRADEMARK LICENSING FOR FARMERS: BREWING A FARMER-OWNED BRAND

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I. INTRODUCTION

In March of 2005, Ethiopia applied to the U.S. Patent and Trademark Office to trademark three of the country’s most valuable coffee-producing regions:

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Harrar, SIDAMO, and Yirgacheffe.¹ Last year, one pound of organic, sun-dried coffee from the Ethiopian village of Fero obtained a return value of about \$1.45.² After figuring costs for production, the revenue amounted to approximately \$1.00 per pound.³ For the same pound of coffee from the Fero village, consumers in the United States paid \$26.00.⁴ Meanwhile, farmers on coffee farms that produce premium coffee beans work with no shoes, scant clothing, and survive on the few crops they grow themselves.⁵

The Ethiopian government addressed the disparate market price that farmers received compared to the sky-high prices corporate coffee companies like Starbucks fetched for specialty coffee with a trademarking initiative.⁶ In an attempt to reach out to American consumers with a real presence in the market, Ethiopia is stirring up a new idea: trademarking valuable regions of Ethiopia where such popular coffee beans as SIDAMO, from the Fero village, are grown.⁷ Ethiopia recognized that there is intangible value to these regional coffee beans; if it were simply the retail price for all coffees, retailers such as Starbucks would sell all imported coffees at such a premium.⁸ The trademark method of brand management is an American profitability tool used primarily by corporations in developed economies.⁹ When Ethiopia applied for its trademark in 2005, Starbucks Coffee Company, the largest purchaser of Ethiopian coffee in the U.S., had already applied to trademark an Ethiopian coffee variety including "SIDAMO" in the name.¹⁰ Starbucks refused to withdraw its application, countering that Ethiopia should instead pursue another form of legal protection: certification.¹¹

As the relationship between Starbucks and Ethiopia deteriorated, supporters chose sides. For Ethiopia, Oxfam International and Light Years Intellectual Property Organization provided advice and assistance for the trademarking efforts.¹² In opposition, the National Coffee Association (NCA) and the Specialty

1. Stephan Faris, *Starbucks vs. Ethiopia*, FORTUNE, Feb. 26, 2007, available at http://money.cnn.com/magazines/fortune/fortune_archive/2007/03/05/8401343/index.htm.

2. *Id.*

3. *Id.*

4. *Id.*

5. *See id.*

6. *See generally* Ethiopian Coffee Network, Welcome to the Website of the Ethiopian Coffee Trademarking and Licensing Initiative, <http://www.ethiopiancoffeenetwork.com/> (last visited July 9, 2009) [hereinafter Ethiopian Coffee Network]; Faris, *supra* note 1.

7. *See* Ethiopian Coffee Network, *supra* note 6; Faris, *supra* note 1.

8. *See* Ethiopian Coffee Network, *supra* note 6; Faris, *supra* note 1.

9. Ethiopian Coffee Network, *supra* note 6; Faris, *supra* note 1.

10. Faris, *supra* note 1.

11. *Id.*

12. *See* Seth Petchers, Oxfam International, What's in a Name? Understanding Oxfam's Starbucks Campaign (Nov. 2006) (unpublished manuscript); *see also* Light Years IP, Ethiopia:

Coffee Association of America supported Starbucks' position. The NCA, representing U.S. coffee roasters, objected to Ethiopia's applications for trademarking Harrar and SIDAMO by filing Notices of Opposition against Ethiopia's trademarking initiative with the U.S. Patent and Trademark Office (USPTO).¹³ The stated grounds in the Notices of Opposition for the two applications were that the name had become a merely generic description of coffee.¹⁴ Under U.S. trademark law, a generic term is not eligible for a trademark.¹⁵ The USPTO took the notices into consideration and Ethiopia's applications for Sidamo and Harrar were denied.¹⁶

Past percolation now, Starbucks and Ethiopia settled their dispute regarding Starbucks' application for "Shirkinia Sun Dried Sidamo."¹⁷ The company signed a licensing agreement with Ethiopia recognizing Ethiopia's ownership of the names.¹⁸ Additionally, Starbucks withdrew its competing application for the SIDAMO trademark.¹⁹ Ethiopia successfully appealed the USPTO denials and obtained a trademark for SIDAMO.²⁰ The licensing agreement, like the one Starbucks agreed to sign, is part of Ethiopia's Coffee Licensing and Trademark Initiative.²¹ The issue remains, however, whether Ethiopia's trademark license model

Coffee Trademarking and Licensing Project, <http://www.lightyearsip.net/ethiopiacooffee.shtml> (last visited July 9, 2009) [hereinafter Light Years].

13. Elizabeth March, *Making the Origin Count: Two Coffees*, WIPO, Sept. 2007, available at http://www.wipo.int/wipo_magazine/en/2007/05/article_0001.html; see also Office Action Outgoing, Serial Number 78589307, U.S. Patent and Trademark Office (July 17, 2006) [hereinafter Action Outgoing] (notice of opposition by the U.S.), available at <http://tportal.uspto.gov/external/portal/tow?SRCH=Y&isSubmitted=true&details=&SELECT=US+Serial+No&TEXT=78589307#>; Response to Office Action, Serial Number 78589307, US Patent and Trademark Office (Jan. 17, 2007) [hereinafter Response to Office Action] (Ethiopian government's response to the USPTO's denial of SIDAMO mark, most recent filing for this point.), available at <http://tportal.uspto.gov/external/portal/tow?SRCH=Y&isSubmitted=true&details=&SELECT=US+Serial+No&TEXT=78589307#>.

14. Response to Office Action, *supra* note 13.

15. See Petchers, *supra* note 12.

16. *Id.*

17. Dana Ford, *Starbucks Ethiopia Settle Licensing Dispute*, REUTERS, June 20, 2007, available at <http://www.reuters.com/article/governmentFilingsNews/idUSN2029455320070620>; see also Petchers, *supra* note 12.

18. Ford, *supra* note 17; Petchers, *supra* note 12.

19. Ford, *supra* note 17; Petchers, *supra* note 12.

20. U.S. Trademark No. 3,381,739 (filed Mar. 17, 2005).

21. Ethiopian Coffee Network, *supra* note 6. The Initiative, described in Part IV of this article, is designed to build a partnership between Ethiopia and international coffee companies that sell the specialty region coffees SIDAMO, Yirgacheffe and Harrar. Ethiopian coffee farmers and exporters work directly with importers and retailers to form a "long-term strategy for brand man-

is the best economic solution to poverty and development for Ethiopian coffee farmers. This Note argues that the current model is ineffective and should instead be part of an integrated development plan focused on improving the standard of living for coffee farmers. This Note additionally concludes that the Ethiopian licensing model is a model for any farmer who wants to capitalize on the value of commodity export products.

In support of those points, this Note addresses the most appropriate solutions to Ethiopian coffee farmers' efforts to capture more value from their specialty coffee regions on the international market. U.S. consumers understand the initiative as a means of improving the coffee farmers' standard of living; this Note argues that Ethiopia's licensing model will be more successful at achieving that goal when coffee farmers are informed of and participate in the plan. Part I describes the international economic conditions under which the coffee trademarking battle arose. Further, it details Ethiopia's role in the international market and the importance of sustainable coffee farming to the country's economy. Part II describes the model that Ethiopia is using to increase profits from the trademarked coffee. Part III addresses the Ethiopian government's chosen course and discusses the purpose and procedure behind the decision to market Ethiopia's specialty coffees using licensing agreements. Part IV discusses the beneficiaries of the model and the mechanics of the model's benefits to Ethiopian agriculture. Finally, Part V assesses whether Ethiopia's model is effective at improving coffee farmers' standard of living, and provides suggestion for improving it by inviting coffee farmer participation in the model. Part V also suggests that the model should be adapted to other agricultural contexts to increase revenue from agricultural commodities.

II. INTERNATIONAL BACKGROUND

Ethiopia, the birthplace of coffee, is one of the world's most poverty-stricken countries.²² The country's economy is primarily agricultural with eighty percent of Ethiopians working in this industry.²³ Coffee is overwhelmingly Ethi-

agement and promotions." The agreements ask market-leading companies to acknowledge trademark rights in order to decrease the countries' farmers' economic vulnerability.

22. Central Intelligence Agency: The World FactBook, <https://www.cia.gov/library/publications/the-world-factbook/geos/ET.html> (last visited July 9, 2009) [hereinafter World FactBook]; see also The World Bank Development Indicators Database: Ethiopia, http://ddp-ext.worldbank.org/ext/ddpreports/ViewSharedReport?&CF=&REPORT_ID=9147&REQUEST_TYPE=VIEWADVANCED (last visited July 9, 2009) (listing forty-two percent of Ethiopia's population as below the national poverty line in 2000).

23. See World Factbook, *supra* note 22.

opia's primary export, accounting for over \$350 million in 2006.²⁴ Coffee is also the second most frequently traded commodity in the world.²⁵ The country's exported coffee contributes to the overall international market as an agricultural commodity.²⁶ Due to a combination of stable market demand for commodity coffee and increased supply, prices for commodity coffee have been historically low.²⁷ Ethiopian coffee farmers suffered dramatically from the decrease in price of their country's largest export.²⁸ Low prices, followed by lower profits on the most important Ethiopian export, caused more farmers to turn to alternative crops.²⁹ For example, Ethiopians have turned to a common alternative crop known as Khat which is a narcotic that is illegal in many countries, including the United States.³⁰

All of the country's land is owned by the government of Ethiopia, so all economic initiatives are the government's decision.³¹ Although the Fair Trade program has aided in helping to ride out the majority of the commodity coffee

24. See Encyclopedia Britannica, Ethiopia, <http://search.eb.com/eb/article-37696> (last visited July 9, 2009) (stating that "coffee is the primary exchange earner"); see also World Factbook, *supra* note 22.

25. March, *supra* note 13.

26. MERRIAM-WEBSTER DICTIONARY ONLINE DICTIONARY, <http://www.merriam-webster.com/dictionary/commodity> (last visited July 9, 2009) (the term "commodity" is defined as "[a] good or service whose wide availability typically leads to smaller profit margins and diminishes the importance of factors (as brand name) other than price."). Thus, the price of commodity coffee is determined based on the market for it as a whole, rather than any specialized demand for any particular kind. The price for commodity coffee is set based on market demand and all growers are subject to the same price regardless of region, unless there is some specialized attribute for which it can be priced at a premium.

27. See World Factbook, *supra* note 22; see also *Hearing Before the S. Comm. on the Western Hemisphere, H. Int'l Relations Comm.*, 107th Cong. (2002) (statement of Frank Lee, Deputy Administrator for Commodity and Marketing Programs, Foreign Agricultural Service, U.S. Department of Agriculture), available at <http://www.fas.usda.gov/info/speeches/ct072402.html> ("Although world coffee exports are forecast up nearly 4 percent over last year's, the bottom line is that export growth will not boost prices, given rising production and near-record supply levels. . . [d]ue to the oversupply situation, coffee prices continue to decline.").

28. Light Years, *supra* note 12.

29. World FactBook, *supra* note 22.

30. Global Exchange, Fair Trade Farmers in Ethiopia, <http://www.globalexchange.org/campaigns/fairtrade/coffee/cooperatives.html.pf> (last visited July 9, 2009); see also Glenice Cox & Hagen Rapses, *Adverse Effects of Khat: A Review*, 9 *ADVANCES IN PSYCHIATRIC TREATMENT* 456, 456 (2003), <http://apt.rcpsych.org/cgi/reprint/9/6/456.pdf> (explaining that "*Catha edulis* (khat) is a plant grown in the countries around the Red Sea and on the eastern coast of Africa. Its leaves are chewed by the local people for their stimulant action . . . Migration of Africans from these countries has spread the habit of khat chewing to the West. Chewing khat has a number of important psychological and physical sequelae. 'Khat-related' psychosis is very similar to that seen following use of amphetamines.").

31. World Factbook, *supra* note 22.

price volatility.³² Ethiopia's aim is to capture the true value of the country's few regional specialty crops because, as U.S. retailers have discovered, the specialty coffees are sold on the market for significantly more than is reflected by revenues of the region's farmers.³³ With a successful trademark licensing model, Ethiopia has the opportunity to increase specialty coffee trade revenue per year by approximately \$88 million.³⁴ The coffee-producing, trademarked regions are Harrar, Sidamo, and Yirgacheffe.³⁵ The three regional specialties are sold to consumers at a premium, usually for three times the export price paid to the Ethiopian suppliers.³⁶

III. ETHIOPIA'S LICENSING AGREEMENT MODEL

A. Trademark Protection

The American system of obtaining intellectual property rights in agricultural products can be somewhat complex. A trademark for a geographic region gives the owner the exclusive right to use the trademarked names commercially.³⁷ In general, under U.S. trademark law, a geographically descriptive term cannot be granted a trademark because it is only descriptive.³⁸ If a geographic term is (1) primarily descriptive or (2) generic, it will be ineligible for a U.S. trademark.³⁹

1. Geographically Descriptiveness Battle

The first barrier to trademarking a geographical term is descriptiveness. To overcome the descriptive nature of a geographic term, the term must have acquired a "secondary meaning." A geographic term's primary meaning to con-

32. This point will be explored in greater detail in Section IV.

33. See Faris, *supra* note 1.

34. *Id.*

35. Light Years, *supra* note 12; see *infra* Appendix C (map indicating specialty region coffee).

36. Light Years, *supra* note 12; see also Faris, *supra* note 1.

37. Faris, *supra* note 1.

38. ALEXANDER LINDEY & MICHAEL LANDAU, LINDEY ON ENTERTAINMENT, PUBLISHING AND THE ARTS; § 2:11.50 (3d ed. 2008); see also *World Carpets, Inc. v. Dick Littrell's New World Carpets*, 438 F.2d 482, 485 (5th Cir. 1971) (reasoning that "[i]t would obviously promote unfair competition to proscribe for all save a single producer the name of a region and thereby preclude other producers of the same product in the same region from indicating their product's origin.").

39. ARTHUR R. MILLER & MICHAEL H. DAVIS, INTELLECTUAL PROPERTY: PATENTS, TRADEMARKS, AND COPYRIGHT IN A NUTSHELL 174-175 (3d ed. 2000).

sumers is the physical location where the goods originated.⁴⁰ A term has “secondary meaning” when the product is considered significant beyond the physical location of the goods.⁴¹ Thus, when a geographic term is associated with qualities independent of its physical location, the name is said to have acquired a “secondary meaning.”⁴² This “secondary meaning” allows the name to be protected as a geographically descriptive trademark.⁴³ Ethiopia succeeded in obtaining a trademark for its three specialty-region coffee names because the names had acquired “secondary meaning” to consumers—consumers recognized the words as a source of quality and for characteristics of the coffee—and were not generic words for “coffee.”⁴⁴

The Florida Sunshine Tree is an example of a trademarked geographic origin.⁴⁵ The Tree is a protected symbol because consumers link the image of the Tree to the distinctive taste of citrus grown only in Florida.⁴⁶ The Florida Sunshine Tree is a crucial asset for the producers because the marks that appear on agricultural product labels represent that producer’s reputation and goodwill.⁴⁷ Producers are encouraged to use U.S. trademark law to parlay the producer’s goodwill and reputation into a marketing tool that protects the product’s intangible value.⁴⁸ Such protection serves the producer by increasing consumer interests in the product and advancing trade.⁴⁹

The second barrier for a geographically descriptive mark is genericness; if a mark is deemed “generic,” it will not be protected.⁵⁰ A mark or term which merely identifies a “genus of which the product or service is a species[,]” is considered generic.⁵¹ For example, the owner of an apple orchard cannot simply trademark the term of its product “Apple,” because the word identifies the prod-

40. United States Patent and Trade Office, Frequently Asked Questions, http://www.uspto.gov/web/offices/dcom/olia/globalip/gi_faq.htm (last visited July 9, 2009) [hereinafter Patent and Trade Offices].

41. *Id.*

42. *Id.*

43. *Id.*; see also RESTATEMENT (THIRD) OF UNFAIR COMPETITION § 14 cmt. d (1995) (“The rationale for the requirement of secondary meaning for geographically descriptive terms is analogous to that applicable to other descriptive designations. Consumers may perceive the designation only in its geographically descriptive sense rather than as a symbol of source or other association with a particular person”).

44. Response to Office Action, *supra* note 13 (Ethiopian government’s response to the USPTO’s denial of SIDAMO mark).

45. Patent and Trade Offices, *supra* note 40.

46. *Id.*

47. *Id.*

48. *Id.*

49. *Id.*

50. MILLER & DAVIS, *supra* note 39, at 174-75.

51. *Id.* at 175.

uct itself—an apple.⁵² Such a description would unfairly impede competition because other apple producers would have no other word to identify their good.⁵³

Because Ethiopia's names were geographic in nature, the terms were tested for "secondary meaning."⁵⁴ In January of 2008, the USPTO recognized Ethiopia's qualification under the "secondary meaning" test and granted Ethiopia a trademark for the coffee-producing regions.⁵⁵ This result did not come easily for Ethiopia as the issue was contested by the National Coffee Association (NCA).⁵⁶

The NCA's protest was that the names have been used for centuries in the United States, such that the terms have become "generic."⁵⁷ The Ethiopian Intellectual Property Office appealed, asserting that the terms were not generic because "SIDAMO," "Yirgecheffe," and "Harrar" do not refer to a broad class of coffee.⁵⁸ Instead, the terms identify the source and quality of the coffee.⁵⁹ The Court of Appeals for the Federal Circuit has held that determining whether a mark is generic involves a two-step test: "First, what is the genus of goods or services at issue? Second, is the term sought to be registered or retained on the register understood by the relevant public primarily to refer to that genus of goods or services?"⁶⁰ Ethiopia asserted that "[t]he relevant public does not understand the term 'SIDAMO' to mean coffee without regard to the source or geographic origin of the coffee or the qualities associated with 'SIDAMO' coffee. 'SIDAMO' is not synonymous with the broad class of coffee."⁶¹ The USPTO agreed, and granted Ethiopia registration in February of 2008.⁶²

52. *Id.* at 171.

53. *Id.*

54. Response to Office Action, *supra* note 13 (Ethiopian government's response to the USPTO's denial of SIDAMO mark, successfully arguing against the term's genericness).

55. Ford, *supra* note 17.

56. Petchers, *supra* note 12; Press Release, Oxfam Int'l, Starbucks Opposes Ethiopia's Plan to Trademark Specialty Coffee Names That Could Bring Farmers an Estimated \$88 Million Annually (Oct. 25, 2006), available at http://www.oxfam.org/en/news/pressreleases2006/pr061026_starbucks.

57. Joshua Gallu, *A Hot Cup of Money: Starbucks, Ethiopia, and the Coffee Branding Wars*, SPIEGEL ONLINE, <http://www.spiegel.de/international/0,1518,448191,00.html> (last visited July 9, 2009).

58. Response to Office Action, *supra* note 13. (Ethiopian government's response to the USPTO's denial of SIDAMO mark).

59. *Id.*

60. *H. Marvin Ginn Corp. v. Int'l Ass'n of Fire Chiefs, Inc.*, 782 F.2d 987, 990 (Fed. Cir. 1986).

61. Response to Office Action, *supra* note 13. (Ethiopian government's response to the USPTO's denial of SIDAMO mark).

62. *See infra* Appendix B.

2. What Trademark Protects

A trademark, federally registered or not, prevents confusion of product origin and protects the owner's goodwill.⁶³ Consumer confusion is an expansive concept: modern trademark law will protect against uses that present a likelihood of confusion, even a hypothetical likelihood.⁶⁴ Protecting the owner's goodwill is a key component to trademark protection in the U.S.; even if the products are not similar, the consumer might think less of the owner if the mark is on a product that the owner does not sell, thereby decreasing the value of the owner's goodwill to the commercial market.⁶⁵

For example, in *American Rice, Inc. v. Producers Rice Mill, Inc.*, both the plaintiff and defendant sold parboiled, American long-grain rice in Saudi Arabia.⁶⁶ The plaintiff's product package bore the design of a girl, a mark for which the plaintiff had federal trademark protection.⁶⁷ The defendant, Producers Rice Mill, also sold parboiled, long-grain rice in Saudi Arabia; the defendant's packaging displayed a girl with a hat, which was not trademarked or advertised.⁶⁸ The court decided that the similarity between the two packages presented a strong likelihood of confusion among Saudi consumers.⁶⁹ Furthermore, Producers Rice Mill "[i]ntended to benefit from the goodwill associated with ARI's brand," thus, the defendant was infringing upon American Rice, Inc.'s rice trademark.⁷⁰

Similarly, a court would apply the analysis to Ethiopia if, for example, Starbucks resumed selling the "Shirkana Sun Dried Sidamo" labeled bags of coffee to consumers.⁷¹ Ethiopia could prevent this activity by any coffee distributor on the grounds that it would cause consumer confusion and unfairly infringe on the trademark.⁷²

63. MILLER & DAVIS, *supra* note 39, at 158.

64. *Id.* at 260.

65. *Id.* at 270-71.

66. *See American Rice, Inc. v. Producers Rice Mill, Inc.*, 518 F.3d 321, 326 (5th Cir. 2008).

67. *Id.*

68. *Id.*

69. *Id.* at 333-34.

70. *Id.* at 332.

71. *See id.*

72. *See id.* at 332-33.

B. *Trademark Licenses*

The trademark owner has the right to exclude others from using the same or a similar mark on confusingly similar products.⁷³ In the same way, a trademark owner has a right to permit non-owners to use the owner's mark.⁷⁴ Because a trademark guarantees product origin *and* product quality, a special contract, called a license agreement, is necessary for allowing another to legally use the trademark in the market.⁷⁵ This agreement is like any other contract with mutual promises, except that the trademark owner polices the terms and conditions of the licensee's use of the mark in order to ensure consistent quality.⁷⁶ Under the Federal Lanham Act, a related company can use the mark, as long as that use does not affect the validity of the mark or the mark's registration provided that use does not deceive the public.⁷⁷

A "related company" is defined as "any person whose use of a mark is controlled by the owner of the mark with respect to the nature and quality of the goods or services on or in connection with which the mark is used."⁷⁸ Therefore, anyone chosen by the trademark owner as a licensee can qualify as a "related company" and continue to use the protected mark under the Lanham Act as long as the owner is controlling the nature and quality of the mark's goods. In Ethiopia's case, all coffee retailers that sell any of the three trademarked brands are "related companies." Starbucks, for example, is a licensee and a "related company" under the Lanham Act.

73. See, e.g., 15 U.S.C. §1114 (1) (2005) ("Any person who shall, without the consent of the registrant—(a) use in commerce any reproduction, counterfeit, copy or colorable imitation of a registered mark. . . which such use is likely to cause confusion. . . or (b) reproduce, counterfeit, copy, or colorably imitate a registered mark. . . which such use is likely to cause confusion. . . shall be liable in a civil action by the registrant for the remedies hereinafter provided."); 15 U.S.C. § 1115(a) (2002) ("Any registration. . . [or] mark registered on the principal register . . . shall be prima facie evidence of the validity of the registered mark and of the registration of the mark, or the registrant's ownership of the mark, and of the registrant's exclusive rights to use the registered mark. . .").

74. Irene Calboli, *A Critical Analysis of the Doctrine of Naked Licenses in Trademark Law*, in 3 INTELLECTUAL PROPERTY AND INFORMATION WEALTH: TRADEMARK AND UNFAIR COMPETITION 175, 176 (Peter K. Yu ed., 2007).

75. *Id.* at 176-77.

76. *Id.* at 177.

77. 15 U.S.C. § 1055 (2006).

78. 15 U.S.C. § 1127 (2006).

C. Ethiopia's Licensing Agreement

Ethiopia is using its U.S. trademark as the main ingredient in its brew of brand strategy. The Ethiopian government's nonexclusive distribution license agreement, like the garden variety license agreement, outlines standards for quality and use, requires certain disclosure, and allows subsidiary licensing.⁷⁹ The agreement also headlines the core goal of the trademarking initiative: building the reputation of Ethiopia's coffee in order to increase consumer demand and thus raise the price paid for the trademarked coffee.⁸⁰ All companies who are interested in selling the trademarked brands have to sign the licensing agreement.⁸¹ Use of the trademarked coffees is a royalty free.⁸² In lieu of royalties, licensees must pay all advertising and marketing costs to promote the brands.⁸³

1. Licensee Rights, Responsibilities, and the EFCS Committee

When a company agrees to be a licensee, it agrees to participate in joint promotional ventures and "overall brand enhancement" with the Ethiopian Fine Coffee Stakeholder (EFCS) Committee.⁸⁴ The Committee is composed of member representatives in each of the following organizations: Ethiopian Coffee Exporters Association Board, Ethiopian Intellectual Property Office, Federal Cooperative Agency, Ministry of Agriculture & Rural Areas Development, Ministry of Foreign Affairs, Ministry of Trade and Industry, SIDAMO Coffee Farmers Union, Oromia Union, and Yirgacheffe Cooperative Union.⁸⁵ In lieu of a royalty or licensing fee, licensee companies agree to work with these members to develop promotional strategy for the brands.⁸⁶ In addition, licensees have benefits: all licensed distributors have the right to voice concerns or suggest policies for marketing and strategy.⁸⁷ The government reserves the right of control over these discussions and policy decisions, however.⁸⁸

Ethiopia's choice of strategy for U.S. intellectual property protection was no mistake: trademarks give the owner exclusive right—indeed, the *duty*—to

79. Ethiopian Coffee Network, Frequently Asked Questions, <http://www.ethiopiancoffeenetwork.com/faq.shtml> (last visited July 9, 2009) [hereinafter Coffee Network Questions].

80. *Id.*

81. *Id.*

82. *Id.*

83. *Id.*

84. *Id.*

85. *Id.*

86. *Id.*; Ethiopian Intell. Prop. Office, Trademark License Agreement, *infra* Appendix A [hereinafter License Agreement].

87. *See* License Agreement, *supra* note 86.

88. *See id.*

control the quality of the product sold. As the specialty coffee name trademark owner, the Ethiopian government, through the Committee, has leverage over licensees who will distribute the coffee. This leverage allows the government to set higher prices for the coffee when consumer demand increases as a result of the outflow of advertising and brand promotion funds spent by the licensee.⁸⁹ By setting higher prices with the fluctuation of retail consumer demand, the government is seeking to establish a separation between the specialty coffee market and the price set for coffee commodity contracts by the New York Board of Trade.⁹⁰ Licensee companies are bound by the licensing agreement for a term of five years.⁹¹

2. *Licensee Promise to Use “Best Efforts”*

The Ethiopian model’s success relies heavily on the licensees’ discretion. Licensees are required to use “best efforts” to promote the trademarked coffees.⁹² This requirement begs the question of what standard for “best efforts” a court will apply to a licensor/licensee dispute. In general, courts have evaluated franchise agreements and contracts with a “best efforts” clause on a case-by-case basis, with no particular test applied consistently.⁹³ If specialty coffee sales lag due to decreased consumer demand—a key component in Ethiopia’s model—Ethiopia could make a viable case for breach of a term of the licensing agreement. “Best efforts” in advertising is variable, and with a brand strategy rooted firmly in advertising at the licensee’s discretion, there is a dangerous potential for disagreement and a collapse in strategy.

89. See Coffee Network Questions, *supra* note 79.

90. See Ethiopian Coffee Network, About the Trademarking and Licensing Initiative, Specialty Market Growth, Ethiopia’s Coffee Challenge, <http://www.ethiopiancoffeenetwork.com/about2.shtml> (last visited July 9, 2009) [hereinafter Trademarking Initiative].

91. License Agreement, *supra* note 86.

92. *Id.*

93. W. MICHAEL GARNER, 2 FRANCHISE & DISTRIBUTION LAW & PRACTICE § 8:39 (2008).

IV. PURPOSE FOR ETHIOPIA'S MODEL

A. Choice of Mark

Often, developing countries have few major exports.⁹⁴ In order to capitalize on a valuable export crop, intellectual property rights are available internationally for protection. This Section discusses Ethiopia's other available options as compared to the U.S. trademark choice: Fair Trade Certification, U.S. trademark certification, and geographical indication under E.U. law.

1. Fair Trade Certification

The Fair Trade movement is composed of twenty initiatives internationally, unified by an umbrella organization known as Fairtrade Labeling Organizations International (FLO).⁹⁵ FLO was established in 1997.⁹⁶ The aim of the program is to support producers by raising awareness of developing countries' economic constraints in trading commodities.⁹⁷ The company raises awareness by campaigning for changes in the rules and practices of conventional international trade.⁹⁸ An independent international certification company, FLO-CERT GMBH, is responsible for certifying producers who qualify under FLO Fair Trade certification criteria.⁹⁹

An economic advantage of the program is that it endeavors to differentiate between coffee choices for consumers by representing Fair Trade as a so-

94. See, e.g., Encyclopedia Britannica Online, Belize, <http://search.eb.com/eb/article-40866> (citing sugar as the main source of export revenue); Encyclopedia Britannica Online, Cambodia, <http://search.eb.com/eb/article-52461> ("Rice is Cambodia's major crop, its principal food, and . . . its most important export commodity."); Encyclopedia Britannica Online, Mali, <http://search.eb.com/eb/article-54983>.

95. Fairtrade Labeling Organizations International: Labeling Initiatives, <http://www.fairtrade.net/> (last visited July 9, 2009).

96. Fairtrade Labeling Organizations International: About Fairtrade, http://www.fairtrade.net/about_fairtrade.html (last visited July 9, 2009).

97. Fairtrade Labeling Organizations International: History of Fairtrade, http://www.fairtrade.net/history_of_fairtrade.html (last visited July 9, 2009).

98. *Id.*

99. FAIRTRADE, SHAPING GLOBAL PARTNERSHIPS: FAIRTRADE LABELING ORGANIZATIONS INTERNATIONAL ANNUAL REPORT 2006/07, 5, http://www.fairtrade.net/fileadmin/user_upload/content/Final_FLO_AR_2007_03.pdf ("FLO-CERT GMBH is responsible for the inspection and certification of producer organisations and traders against the Fairtrade Standards. The independence of the inspections ensures that Fairtrade minimum price and premium reaches the producers and that the Fairtrade certification mark is only used on products coming from Fairtrade Certified products.").

cially responsible consumer choice.¹⁰⁰ Fair Trade retailers sell the certified coffee because the certification communicates to consumers that they can drink their daily coffee knowing they are contributing to third-world farmers and, ultimately, helping the world economy as a whole.¹⁰¹ As such, the coffee is perceived by consumers as a premium product, setting it apart from other coffees that appear to taste and look the same.¹⁰²

However, both advocates and critics of the program agree that the program cannot be used as the only strategy in economic development.¹⁰³ In fact, a primary criticism of the Fair Trade program is that it is premised too heavily on corporate generosity.¹⁰⁴ Fair trade certification is not designed as an exclusive economic remedy for coffee farmers.¹⁰⁵ The Fair Trade Organization encourages Farmers to diversify and seek out other ways to increase their market knowledge.¹⁰⁶ Moreover, the Fair Trade Certification program is not suitable for the specialty market: Fair Trade sets higher prices for commodity coffee, whereas Ethiopia is seeking to capitalize on its specialty coffee. As such, Ethiopia's trademarking initiative for its specialty coffee is in line with a comprehensive plan aimed at increasing consumer awareness and diversifying while retaining more of the profits from the specialty region coffees.

2. Certification Mark

In protest to Ethiopia's trademark applications, Starbucks countered that Ethiopia should only qualify for a certification mark under U.S. law.¹⁰⁷ A "certification mark" is "any word, name, symbol, or device used by a party or parties other than the owner of the mark to certify some aspect of the third parties'

100. James P. DeWan, *Saving Coffee by Spending More: "Fair-trade" Certification for Specialty Beans Aims to Keep Growers on Their Land in the Developing World*, CHI. TRIB., July 2, 2003, at 3, available at <http://www.tradeobservatory.org/headlines.cfm?RefID=18416>.

101. *Id.*

102. *Id.*

103. Press Release, FLO International: Response to The Economist (Good Food, 9/12/06) (Dec. 15, 2006), [http://www.fairtrade.net/single_view1.html?&L=0&cHash=9eeaa9e73f&tx_ttnews\[backPid\]=614&tx_ttnews\[pointer\]=6&tx_ttnews\[tt_news\]=11](http://www.fairtrade.net/single_view1.html?&L=0&cHash=9eeaa9e73f&tx_ttnews[backPid]=614&tx_ttnews[pointer]=6&tx_ttnews[tt_news]=11) (last visited July 9, 2009) [hereinafter FLO Press Release].

104. *See, e.g.*, Sam Kornell, *Bean Counting*, SANTA BARBARA INDEP., Apr. 5, 2007, available at <http://www.independent.com/news/2007/apr/05/bean-counting/>.

105. *See* FLO Press Release, *supra* note 103 (indicating that FLO international and its members' labeling initiatives play an active role in the promotion of trade justice in both the political and economic spheres).

106. *Id.*

107. *See* March, *supra* note 13.

goods/services.”¹⁰⁸ Certification allows broad usage of the mark, as long as the entity using it complies with the owner’s specific standards.¹⁰⁹ The owner of a certification is not the user of the certification; producers obtain permission to use the mark from the owner holding it.¹¹⁰ Any producer who meets the owner’s standards may use the mark.¹¹¹ Certification marks are different from trademarks because the owner does not use the mark, individual producers use the mark.¹¹² Additionally, the mark does not reflect a particular commercial source.¹¹³ Thus, in Ethiopia’s case, as is common, the government would own the certification mark.

There are clearly certain disadvantages to certification for an owner in Ethiopia’s position. Providing appropriate government management of the certification mark for each region’s many farms entails high administrative costs.¹¹⁴ Furthermore, the primary goal of certification is protection against misuse of a mark. In comparison, trademarks prevent misuse, but also grant the owner exclusive control for the use and right to use the term on products.¹¹⁵

Unfortunately, a certification mark is not in line with Ethiopia’s ultimate economic goal to increase the prices paid to farmers by broadening awareness of the coffee’s origin and quality, thereby increasing consumer demand and price paid for the coffee.¹¹⁶ This goal is achievable when there is absolute control over the marks under U.S. trademark protections.¹¹⁷ With a trademark, Ethiopia has

108. LINDEY & LANDAU, *supra* note 38, at § 2:11.50.

109. *Id.*

110. *Id.*

111. *Id.*

112. *Id.*

113. *Id.*

114. Joel Starr & Timothy J. Castle, *Ethiopia’s Branding Battle*, TEA & COFFEE TRADE J., April 2007, available at <http://www.teaandcoffee.net/0407/coffee.htm> [hereinafter Starr & Castle, April 2007]; March, *supra* note 13 (quoting Getachew Mengistie, Director General of the Ethiopian Intellectual Property Office: “Our coffee is grown on four million very small plots of land. Setting up a certification system would have been impracticable and too expensive.”).

115. Petchers, *supra* note 12; Press Release, Oxfam Int’l, Starbucks CEO Meets With European Prime Minister Over Ownership of Coffee Names (Nov. 29, 2006), available at http://www.oxfam.org/en/news/pressreleases2006/pr061129_starbucks.

116. *Id.*

117. *Id.*; see also Joel Starr & Timothy J. Castle, *Ethiopia’s Branding Battle*, TEA & COFFEE TRADE J., March 2007, available at <http://www.teaandcoffee.net/0307/coffee.htm> [hereinafter Starr & Castle, March 2007] (quoting Robert Nelson, President and CEO of the National Coffee Association: “One could register a certification mark legally in the U.S., however, that in and of itself will not increase value. To increase value, three additional things have to occur. One, Ethiopia would have to implement a robust system of transparency to ensure that any added value is making it back to the farmer, which is the stated goal of this campaign. Two, the mark has no value; you have to build a brand, you have to invest money into the market place to build a brand around it. Three, you have to enforce the mark.”).

more control over brand management and value.¹¹⁸ On the other hand, certification simply provides lesser protections for control of quality because any company may use the mark.¹¹⁹

Proponents of the certification method of protection point out that Jamaican coffee farmers use certification marks and return a forty-five percent increase in coffee profit to the producers.¹²⁰ Nonetheless, an examination of the differences in the two countries' circumstances provides evidence that this same effect would not occur in Ethiopia. Certification would not work for Ethiopian farmers the way it did for the Jamaican Blue Mountain farmers because the Jamaican effort included far fewer producers.¹²¹ In Ethiopia, 1.2 million small growers are involved with farming the country's primary export.¹²² Lower profits to the farmers would ultimately result from implementing a certification scheme because, unlike Jamaica, there are more than a few producers for the government to manage. Because of the vast number of farmers and regions, the owner of the certification mark (the government) would realize higher administrative costs, consequently passing down lower profits to the farmers under this alternative model.

3. *Geographic Indication*

Geographic Indication is another option for branding available to the Ethiopian Government. Europe offers a separate method for protecting rights in a geographic name. Geographical Indications (GIs) do not identify a single commercial source. Instead, a GI simply identifies that the product came from a specific region and that the region is identified with a quality or value to consumers.¹²³

Geographical indications are protected differently under various countries' legal systems.¹²⁴ There is no universal definition for what constitutes a "geographical indication."¹²⁵ Under U.S. trademark law, GIs are registered and

118. Petchers, *supra* note 12.

119. *Id.*

120. Starr & Castle, April 2007, *supra* note 114.

121. *Id.*

122. Petchers, *supra* note 12; *see also* Sustainable Tree Crops Program, Ethiopia: Coffee History, Production, Economy Facts, http://www.treecrops.org/country/ethiopia_coffee.asp (last visited June 30, 2009) ("The labor intensive tree crop also provides much employment in rural areas and is the means of livelihood for over 15 million people in Ethiopia.").

123. J. THOMAS MCCARTHY, 2 MCCARTHY ON TRADEMARKS AND UNFAIR COMPETITION § 14:1.50 (4th ed. 2008).

124. *See* Stacy D. Goldberg, Comment, *Who Will Raise the White Flag? The Battle Between the United States and the European Union Over the Protection of Geographic Indications*, 22 U. PA. J. INT'L ECON. L. 107, 135 (2001).

125. *See* MCCARTHY, *supra* note 123.

protected as a class of trademarks and must meet U.S. trademark secondary meaning requirements to pass muster as a trademark.¹²⁶ In contrast, under European laws, GIs are given a registration and protection system separate from trademarks.¹²⁷ Furthermore, GIs often are used to protect an already-established brand in the market.¹²⁸ In this case, Ethiopia's goal is to develop the specialty coffee brands so that they may reach the protectable status in Europe of a GI for wine. Because of the differences in the definition and protection of GIs between countries, obtaining a GI in European countries will not lend Ethiopia any leverage to sell the specialty coffees to U.S. consumers.

B. *Nonexclusive Licensure*

The second part of Ethiopia's choice in strategy was to make the license terms nonexclusive as opposed to exclusive.¹²⁹ Under a nonexclusive licensing arrangement, the licensor is not restricted from licensing the same property to other licensees.¹³⁰ In contrast, an exclusive license is a promise by the licensor that it will refrain from granting any other licenses regarding the same trademarked good within the same scope of application.¹³¹

The decision to make a license term nonexclusive involves a policy determination at the outset of the initiative.¹³² The precise influence for Ethiopia's policy decision is not clear. However, there are many indications that an exclusive license would not have been aligned with Ethiopia's goals. For example, an exclusive license should typically be granted only to dominant vendors in markets with relatively few competitors. In the U.S., there is a plethora of coffee vendors; even a massive retailer such as Starbucks has regional competition. Thus, an exclusive license was not a natural choice for Ethiopia's model.

Nonexclusive licenses provided Ethiopia with a more favorable alternative. Under a nonexclusive licensing model, Ethiopia is not dependant solely on one licensee's success at advertising the specialty coffees.¹³³ Another advantage is that Ethiopia retains more control over the coffee by reserving the right to participate in promotion.¹³⁴ If any licensee coffee retailers purposely decide not to

126. Patent and Trade Offices, *supra* note 40.

127. *Id.*; see also MCCARTHY, *supra* note 123.

128. See Patent and Trade Offices, *supra* note 40.

129. See generally License Agreement, *supra* note 86.

130. RAYMOND T. NIMMER & JEFF DODD, MODERN LICENSING LAW § 5:4 (2007).

131. *Id.* ("In many cases, an exclusive license more resembles an assignment than it does a nonexclusive license.")

132. JACK REVOYR, A PRIMER ON LICENSING 40 (1994).

133. See ROBERT C. MEGANTZ, HOW TO LICENSE TECHNOLOGY 75 (1996).

134. *Id.*

commercialize the coffee, Ethiopia may bring a “lack of best efforts” contract breach claim and dismiss the licensee. Finally, the specialty coffee will have greater exposure to the market in a nonexclusive license model because of the number of licensees.¹³⁵ The more exposure the coffee has to various markets in the U.S., the greater the correlating consumer and retailer demand for it.

V. BENEFICIARIES OF THE TRADEMARK LICENSING MODEL

Ethiopia’s licensing model benefits many parties tied to the initiative, including the farmers, the cooperatives, the licensee companies, the consumers, the U.S. economy, and the Ethiopian citizens. The issue is whether the model’s benefit goes primarily to trade or to farmers.

Consumers reap the benefits of Ethiopia’s trademarked coffee by knowing the quality and source of the specialty coffee is guaranteed, and by knowing that farmers are seeing more profit from each cup.

The model benefits licensee companies because specialty coffee consumers will perceive the companies as socially responsible.¹³⁶ Additionally, the agreement benefits licensees by decreasing risk—the agreement guarantees that there is a sustainable supply of coffee for distributing companies to match the demand for it.¹³⁷ Most importantly, Ethiopia suggests that the benefit to retailers is the same as the benefit to farmers—building the brands of the specialty coffees will increase consumer demand and allow the market to support a higher retail price.¹³⁸ Furthermore, the licensing model plainly benefits the U.S. economy—hence the reason behind the Lanham Act’s approval of “related company” use of trademarks—the nonexclusive licenses foster continued competition among licensees such as Starbucks and Pura Vida coffee retailers.

Most notably, as well as the central reason Ethiopia decided to launch the initiative, Ethiopian farmers stand to benefit from the trademark licensing model. Licensee distributors will advertise the regional specialty coffee under the contract which will theoretically cause socially conscious consumers to demand more. Farmers will receive the benefit of Ethiopia’s new bargaining position as consumer demand drives up prices for the coffees; the farm gate price for the specialty coffees will attach to the retail price rather than the New York commodity price as it has been historically.¹³⁹ The government pledges to disperse

135. *Id.*

136. Coffee Network Questions, *supra* note 79.

137. *Id.*

138. *Id.*

139. *Id.*; see also OECD Glossary of Statistical Terms, available at <http://stats.oecd.org/glossary/detail.asp?ID=940>.

adequate information to farmers and to conduct nationwide farm gate price checks to ensure that the prices are indeed increasing.¹⁴⁰ Ethiopians will all benefit from the exposure to higher prices filtering through the production chain because the country's domestic economy stands to flourish from increased consumer income and spending.

Unfortunately, higher incomes do not translate directly into higher standards of living. Many American consumers purchase Ethiopian-branded coffee for \$3.00 a cup in a socially responsible effort to help Ethiopian farmers survive. However, a higher price on trademarked coffee is not enough to improve the standard of living in one of the continent's most impoverished countries.¹⁴¹

VI. MODEL'S EFFECTIVENESS

In order to determine whether this model will be successful, it is important to note the goals of the initiative. The nonexclusive licensing model serves two possible goals: protecting trade, and raising the standard of living for sixty million Ethiopian coffee farmers.¹⁴² Both are necessary for economic development and are not mutually exclusive. However, the government's initiative is premised on the benefits farmers will see from the increased revenue from trademarked coffee; effectively, the government's public campaign is promoting a coffee branding strategy focused on improving the farmers' standard of living. As a result, consumers will plunge deeply into their pockets to pay premium prices for specialty coffee because they expect that farmers will soon see the profits from increased prices. Consumers' response to licensee advertising is therefore premised on the value of the region's farmers, who cultivate the trademarked coffee brands. As such, Ethiopia's branding campaign goals should be aligned with this expectation to be effective.

The agreement grants the government the sole right to determine pricing—ownership of the trademark is the leverage the country needs to set higher revenue.¹⁴³ As a result of higher prices and consumer demand on the retail end of the market chain, the farmers will have to increase productivity before increasing price. This raises the question of sustainability: environmental investigations into Ethiopian coffee plantations in 2006 revealed that plantations are encroaching on several forests where Arabica coffee is grown thus, stripping the land of

140. Coffee Network Questions, *supra* note 79.

141. ROLAND BUNCH, TWO EARS OF CORN: A GUIDE TO PEOPLE-CENTERED AGRICULTURAL IMPROVEMENT 12 (5th ed. 2000).

142. See World FactBook, *supra* note 22 (Agriculture (coffee farming majority of agriculture) employs 80% of Ethiopians; 2007 estimate of Ethiopian population approximately 76 million).

143. Coffee Network Questions, *supra* note 79.

its natural coffee-growing environment.¹⁴⁴ Without a sustainable harvest of coffee, the country risks losing its trademarks to possible consumer deception claims because a trademark owner is responsible for meeting the environmental standards that define the product quality to consumers.

A. *Farmers and the Current Model*

Raising the farmers' standard of living should be the purpose of the licensing agreement for the trademarked specialty coffee. Ultimately, the linchpin of the licensing initiative is the consumer belief that eighty percent of the Ethiopian population working in agriculture to grow and process coffee for trade will profit from each purchase.¹⁴⁵ The value of the Ethiopian trademarks derives from the regions' reputation of hard work and poverty mixed with the earthy, lemony, or floral flavors in each specialty brand. Accordingly, the secondary meaning of the terms are rooted in the consumer's recognition of the specific type of coffee which is characteristically flavored and cultivated in one of the poorest nations in the world.¹⁴⁶ Therefore, if retailer licensees such as Starbucks or Pura Vida increase prices in accordance with the elasticity of consumer demand for the trademarked coffees, consumers should continue to pay the higher price.

However, if the profits are not truly returning to the farmers, the individuals who help shape the identification of the marks with the product, the scheme will not have the same effect. There is evidence that the farmers will not profit as advertised. The first sign of lower profits to the farmers is reflected in the Ethiopian Coffee Network's communication to the public: "[I]mproved returns and trading proceeds...will go directly to the cooperatives and exporters and *then on to farmers*."¹⁴⁷ Thus, after international trade agents are paid with the eventually higher profits from an influx of consumer demand, the farmers stand third in line to receive their share. There is no indication of how much is left after other parties receive a portion of the revenue, but it is clear that the farmers for whom the consumers are eager to pay a higher price are not first in line to receive the benefits. Due to variance in consumer demand for specialty products such as

144. TADESSE WOLDERMARIAM GOLE, ET AL., HUMAN IMPACTS ON THE COFFEE ARABICA GENEPOOL IN ETHIOPIA AND THE NEED FOR ITS IN SITU CONSERVATION, 237 (2002).

145. THE COLOMBIA ENCYCLOPEDIA, ETHIOPIA (6th ed., 2007).

146. See Response to Office Action, *supra* note 44 (“[a]lthough the primary meaning of SIDAMO to consumers may be a geographic location, the secondary meaning is a source identifier for coffee. Because the SIDAMO mark has secondary meaning to consumers, and has a source identifying capacity, it is protectable as a trademark. The purchasing public continues to associate the term SIDAMO with coffee from Ethiopia with distinctive qualities and characteristics monitored by the Applicant.”).

147. Coffee Network Questions, *supra* note 79 (emphasis added).

coffee, the farmers will be the market participants who suffer the most because market fluctuations, along with the absence of a price floor, will result in sharp decreases in revenues.

Additionally, all of the above is premised on the assumption that there is an absence of any corruption in the political agenda in Ethiopia. Ethiopia's strong history of political corruption earned it a score of 2.4 on the corruption scale in Transparency International's 2007 report, meaning corruption is widespread and "rampant."¹⁴⁸ Ethiopia has a history of political corruption characterized by government scandals.¹⁴⁹ The government is intimately involved with the licensing initiative and the Committee that makes strategy, pricing, and profit distribution decisions.¹⁵⁰ While the government has promoted the trademark licensing initiative with poor coffee farmers as the priority, consumers may well be aware that the reality of the profits they help create may not be so rosy. This corruption is a potential threat to the success of the new branding model profits.

Finally, the model deliberately places farmers' access to information at the end of the priority list. As the owner of the mark, Ethiopia declares it will raise awareness of the value the farmers should expect to see in trademarked coffee producing regions.¹⁵¹ While the farmers work every day to produce the coffee that is passed over to cooperatives and exporters, they may not see much, if any, of the extra profit due to high numbers of middlemen.¹⁵² Ethiopian farmers are scattered throughout the country, with little access to telecommunication.¹⁵³ Farmers may not have the opportunity to participate in "awareness raising" activities before consumer demand increases due to the branding strategy abroad. Farmers must be informed of the planned scheduled increases in demand from licensee advertising, *before* that increase arrives on the supply side. If supply capacity for sustainable coffee is not developed first, there is a risk that "too much demand will be generated too soon for a sustainable product."¹⁵⁴

148. Transparency International, 2007 Corruption Perceptions Index Regional Highlights: Africa, http://www.transparency.org/policy_research/surveys_indices/cpi/2007/regional_highlights_factsheets.

149. Global Integrity, Ethiopia Timeline, <http://www.globalintegrity.org/reports/2006/ETHIOPIA/timeline.cfm> (in March 2000 "[f]ormer Prime Minister Tamirat Layne is convicted of embezzlement, corruption and abuse of office.>").

150. See Trademarking Initiative, *supra* note 90.

151. Coffee Network Questions, *supra* note 79.

152. See generally Tom Knudson, Investigative Report: Promises and Poverty 3, The Sacramento Bee (Sept. 23, 2007) (noting that fair trade coffee prices, sixteen cents over global minimum, are paid to Ethiopians, yet farmers do not receive it due to middlemen).

153. Petchers, *supra* note 12.

154. PAUL D. RICE & JENNIFER McLEAN, SUSTAINABLE COFFEE AT THE CROSSROADS 140 (1999).

More importantly, consumers infer from both Ethiopia's campaign and from future licensee advertisements that the farmers will be directly benefited when they spend extra to buy a trademarked cup of SIDAMO. Although farmers will eventually see a portion of the additional profit from increased consumer demand for their specialty coffee, an increase in income does not automatically raise the standard of living for the community. More is required in order to improve hunger, health care, and education statistics. If the purpose of the licensing agreement venture is to use the retail market profits to raise the farmers' standard of living, the current licensing model is not completely effective.

B. *Making the Current Model More Effective*

The current licensing model can be more effective at both raising coffee farmers' standard of living and delivering an authentic product to the consumer if the initiative is treated as one tool in a larger model for economic development. Using intellectual property as a tool for economic development in developing countries is currently a program of interest to world development organizations and economists.¹⁵⁵ As previously stated, consumer motivation to purchase the advertised Ethiopian specialty coffee is based on ethical considerations to improve the farmers lives. In order to meet that goal and deliver to the consumers a sustainable cup of SIDAMO that steams with the goodwill consumers associate with the origin, Ethiopia must create and implement a development plan that includes the agreement *and* the farmers. To do this, it is most effective to empower the farmers as informed participants in the initiative. Farmers should be informed of the agreement with coffee companies and encouraged to increase agricultural productivity and sustainability by a method they discover is appropriate.¹⁵⁶ The licensing model can be improved by making information to farmers a priority: a structured visitation and outreach program by foreign nonprofits or other volunteer organization keeps administrative costs down and brings all farmers to the same level of information. This first stage is also critical to creating a sense of priority in a development strategy rather than the immediate day-to-day coffee production cycle.

Furthermore, the licensing model can be even more effective once Ethiopia's trademark licenses have established a strong brand and market presence.

155. See World Intellectual Property Organization, Intellectual Property and Economic Development Division, <http://www.wipo.int/ip-development/en/ipedd.html>; see also B. ZORINA KHAN, NATIONAL BUREAU OF ECONOMIC RESEARCH, INTELLECTUAL PROPERTY AND ECONOMIC DEVELOPMENT: LESSONS FROM AMERICAN AND EUROPEAN HISTORY, http://www.iprcommission.org/papers/pdfs/study_papers/sp1a_khan_study.pdf.

156. BUNCH, *supra* note 141, at 11.

At that point, other intellectual property rights may be added to Ethiopia's trademark—namely, as mentioned above, a geographic indication in Europe. In this case, when Ethiopia's brand becomes highly reputable in the market, this strategy will add to the initiative's goals and continue to increase profits to farmers.

C. Application Beyond Ethiopia—Farmer Brands for Success

The model spoken of here has application beyond Ethiopia's coffee initiative. Many developing countries with agricultural commodities may be well advised of the innovative strategy for successful branding.

In the international arena, many developing countries can benefit from a national trademark licensing initiative. Uganda, for example, is one of the world's largest coffee exporters, second largest in Africa alone.¹⁵⁷ Uganda, like Ethiopia, is a severely impoverished nation.¹⁵⁸ The country's commentators have suggested that the Ugandan government should follow Ethiopia's lead with a trademark brand strategy for coffee to increase income to farmers and improve standard of living.¹⁵⁹ In fact, if Africa does not take advantage of its intellectual property potential, there is a risk that foreign businesses will exploit Africa's natural trademark potential and recover licensing profits for themselves if governments do not move fast enough.¹⁶⁰

In addition, the Ethiopian licensing model may have some influence in the U.S.: U.S. Midwestern farmers are victim to farm gate prices for agricultural commodities with unique attributes.¹⁶¹ For example, Japanese consumers associate better-tasting beef with farms along I-80—calling it "I-80 beef."¹⁶² The cattle are grain fed for up to six months, making the end product more flavorful and tender.¹⁶³ Like Ethiopia's specialty coffees grown in distinct regions of the country, beef consumers recognize the difference, yet the prices do not reflect the value. This value can be more widely recognized and protected with farmers

157. See National Geographic, Major Coffee Producers, <http://www.nationalgeographic.com/coffee/map.html>; see also Eastern African Fine Coffees Association, Uganda Chapter, <http://www.eafca.org/uganda.htm>.

158. Joseph Olanyo, *Starbucks Ready to Brew Ugandan Coffee*, DAILY MONITOR, May 21, 2007, available at http://www.monitor.co.ug/artman/publish/business_power/Starbucks_ready_to_brew_Ugandan_coffee.shtml (country's population more than 38 percent living on less than one dollar a day).

159. *Id.*

160. Brenda Marangu, *Patenting Our Property*, DAILY MONITOR, March 9, 2008, available at http://www.monitor.co.ug/artman/publish/sun_business/Patenting_our_property.shtml.

161. See generally Dermott J. Hays, et. al, *Farmer-Owned Brands? 20 Agribusiness 269* (2004).

162. *Id.* at 284.

163. *Id.*

driving a trademark initiative like Ethiopia's: the farmers may acquire a trademark, license the sales of the meat to retailers on a nonexclusive basis, and as a result, see more profits from their valuable agricultural commodity globally.

VII. CONCLUSION

In general, an agricultural licensing agreement is an effective tool for spurring national development. Ethiopian coffee farmers define the value of the trademarked specialty coffee to consumers, who will pay a higher price for the quality imported product. As such, the goal of the initiative should be to enhance the farmers' standard of living, such that the consumer receives a continuous expected value from the trademarked product's village of origin, and the farmers receive the publicized benefits of their labor. In order to fully meet the goals of the licensing model, the levels of profit draining need to evaporate and farmers should be empowered to become more active participants in the agricultural development planning. Moreover, farmers in other countries may use a similarly structured branding strategy as a way to reap in higher profits from specialty products sold at commodity prices. The planning ahead for Ethiopia promises to be a long, difficult task, but the potential for a more sustainable supply of coffee for Starbucks customers globally emits the unmistakably delightful aroma of truly fair trade.

VIII. APPENDIX A

TRADEMARK LICENSE AGREEMENT

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FEDERAL DEMOCRATIC REPUBLIC OF ETHIOPIA
ETHIOPIAN INTELLECTUAL PROPERTY OFFICE

THIS AGREEMENT IS BETWEEN THE GOVERNMENT OF ETHIOPIA ("LICENSOR"), A SOVEREIGN GOVERNMENT WITH AN EMBASSY IN LONDON, UNITED KINGDOM, AND

_____,
("LICENSEE"), A CORPORATION ORGANIZED UNDER THE LAWS OF _____,
HAVING ITS PRINCIPAL PLACE OF BUSINESS IN

_____, AND THIS AGREEMENT IS EFFECTIVE FROM
THE DATE OF SIGNATURE BY THE LICENSEE OR THE LICENSOR WHICHEVER IS
LATER.

WHEREAS, ETHIOPIA HAS FILED APPLICATIONS WITH THE OFFICE FOR HARMONISATION IN THE INTERNAL MARKET (OHIM) TO PROTECT ITS RIGHTS IN THE COFFEE NAMES SIDAMO, YIRGACHEFFE, HARRAR AND HARAR (COLLECTIVELY THE "MARKS"). THE PURPOSE OF THESE FILINGS IS TO SEEK TO MAXIMIZE THE BENEFITS TO FARMERS OF THE USE OF THE MARKS AND THE GOODWILL SYMBOLIZED BY THE MARKS WORLDWIDE, AND TO PREVENT MISUSE OF THE MARKS.

WHEREAS, LICENSOR HAS COMMITTED ITSELF TO SECURING, ENHANCING AND MANAGING THE RIGHTS ASSOCIATED WITH USE OF THE MARKS, INCLUDING ALL RIGHT, TITLE AND INTEREST IN AND TO THE MARKS FOR THE BENEFIT OF, AND IN COLLABORATION WITH, UP TO 4 MILLION ETHIOPIANS ENGAGED IN THE PRODUCTION AND SUPPLY OF COFFEES COVERED BY THE MARKS AS REPRESENTED BY FARMER COOPERATIVES AND OTHER ORGANIZED STAKEHOLDERS IN THE ETHIOPIAN COFFEE SECTOR.

WHEREAS, LICENSOR OWNS ALL RIGHT, TITLE AND INTEREST IN AND TO THE MARKS THROUGHOUT THE WORLD, INCLUDING REGISTRATIONS AND APPLICATIONS FOR REGISTRATION THEREOF AS

LISTED ON SCHEDULE A HERETO, AND COMMON LAW RIGHTS IN THE MARKS, TOGETHER WITH THE GOODWILL SYMBOLIZED BY THE MARKS WORLDWIDE; AND

WHEREAS, THE LICENSEE HEREBY RECOGNISES THAT THE MARKS ARE DISTINCTIVE OF THE FINE COFFEE PRODUCED BY THE LICENSOR; AND

WHEREAS, LICENSEE IS DESIROUS OF USING THE MARKS IN THE EUROPEAN UNION AND WORLDWIDE IN CONNECTION WITH ITS BUSINESS; AND

WHEREAS, LICENSOR IS WILLING TO GRANT A NONEXCLUSIVE LICENSE TO LICENSEE TO USE, OR TO LICENSE ITS AFFILIATES TO USE, THE MARKS UPON THE TERMS AND CONDITIONS PROVIDED HEREIN;

NOW, THEREFORE, IN CONSIDERATION OF THE FOREGOING AND OF THE MUTUAL PROMISES HEREINAFTER SET FORTH, THE PARTIES AGREE AS FOLLOWS:

1. DEFINITIONS FOR THE PURPOSES OF THIS AGREEMENT:

1.1 "AFFILIATES" SHALL MEAN EACH PERSON CONTROLLED BY OR UNDER COMMON CONTROL WITH LICENSEE.

1.2 "CONTROL," INCLUDING THE TERMS "UNDER COMMON CONTROL WITH" AND "CONTROLLED BY," SHALL MEAN THE POSSESSION DIRECT OR INDIRECT, OF THE LICENSEE TO DIRECT OR CAUSE THE DIRECTION OF THE MANAGEMENT AND POLICIES OF A PERSON, WHETHER THROUGH OWNERSHIP OF VOTING SECURITIES OR OTHERWISE.

1.3 "MARKS" SHALL MEAN THE REGISTERED TRADE MARKS AND TRADE MARK APPLICATIONS, LISTED ON SCHEDULE A HERETO AND ANY ADDITIONAL TRADEMARKS THAT MAY BE ADDED TO SCHEDULE A BY LICENSOR DURING THE TERM OF THIS AGREEMENT AS DEFINED HEREIN.

1.4 "PERSON" MEANS ANY INDIVIDUAL, PARTNERSHIP, LIMITED LIABILITY COMPANY, CORPORATION, ASSOCIATION, TRUST, JOINT VENTURE, UNINCORPORATED ORGANIZATION OR OTHER ENTITY.

1.5 "PRODUCTS" MEANS COFFEE.

2. GRANT OF NONEXCLUSIVE WORLDWIDE LICENSE SUBJECT TO THE TERMS AND CONDITIONS SPECIFIED HEREIN, LICENSOR GRANTS TO LICENSEE A NONEXCLUSIVE LICENSE TO USE, WITH THE LIMITED RIGHT AS PROVIDED IN PARAGRAPH 8 BELOW TO LICENSE OTHERS TO USE THE MARKS IN THE EUROPEAN UNION AND WORLDWIDE IN CONNECTION WITH

THE GOODS COVERED BY THE REGISTRATIONS AND APPLICATIONS FOR REGISTRATION, NAMELY COFFEE (THE "PRODUCTS").

3. OWNERSHIP OF MARKS LICENSEE ACKNOWLEDGES LICENSOR'S OWNERSHIP OF THE MARKS, AGREES THAT IT WILL DO NOTHING INCONSISTENT WITH SUCH OWNERSHIP AND THAT ALL USE OF THE MARKS BY LICENSEE OR ITS SUB-LICENSEES SHALL INURE TO THE BENEFIT OF AND BE ON BEHALF OF LICENSOR, AND AGREES THAT NOTHING IN THIS AGREEMENT SHALL GIVE LICENSEE OR ITS SUB-LICENSEES ANY RIGHT, TITLE OR

INTEREST IN THE MARKS OTHER THAN THE RIGHT TO USE THE MARKS IN ACCORDANCE WITH THIS AGREEMENT.

4. QUALITY CONTROL

LICENSEE AGREES THAT USE OF THE MARKS SHALL CONFORM TO STANDARDS UNDER THE CONTROL OF LICENSOR. LICENSEE AGREES TO COOPERATE WITH LICENSOR IN FACILITATING LICENSOR'S CONTROL OF SUCH USE AND TO SUPPLY LICENSOR WITH SPECIMENS OF USE OF THE MARKS BY LICENSEE OR ITS SUB-LICENSEES UPON REQUEST. LICENSOR HAS REVIEWED AND APPROVED SPECIMENS SHOWING LICENSEE'S USE OF THE MARKS AS SET FORTH IN SCHEDULE B. LICENSEE SHALL BE SOLELY RESPONSIBLE FOR ITS COMPLIANCE WITH ALL APPLICABLE LAWS AND REGULATIONS AND FOR OBTAINING ALL APPROPRIATE GOVERNMENT APPROVALS PERTAINING TO THE SALE, DISTRIBUTION AND ADVERTISING OF THE PRODUCTS DISPLAYING THE MARKS COVERED BY THIS AGREEMENT.

5. FORM OF USE LICENSEE AGREES NOT TO USE, OR TO AUTHORIZE ITS SUB-LICENSEES TO USE, ANY OTHER

TRADEMARK IN COMBINATION WITH ANY OF THE MARKS WITHOUT PRIOR WRITTEN APPROVAL OF LICENSOR, WHICH APPROVAL SHALL NOT BE UNREASONABLY WITHHELD.

6. ROYALTY NO ROYALTY SHALL BE REQUIRED TO BE PAID BY LICENSEE.

7. INFORMATION LICENSEE SHALL PROVIDE LICENSOR WITH SUCH SALES AND OTHER INFORMATION AS LICENSOR

MAY REASONABLY REQUEST CONCERNING SALES OF PRODUCTS COVERED BY THE MARKS BY LICENSEE AND ITS SUB-LICENSEES. LICENSOR SHALL HOLD SUCH INFORMATION IN CONFIDENCE.

8. SUB-LICENSES

LICENSEE MAY SUB-LICENSE, BY WRITTEN AGREEMENT SUBSTANTIALLY IN THE FORM OF EXHIBIT 1 HERETO, ANY OF THE MARKS SOLELY TO ITS AFFILIATES FOR SO LONG AS SUCH ENTITIES REMAIN ITS AFFILIATES. LICENSEE MAY NOT DIRECTLY OR INDIRECTLY SUB-LICENSE OR ATTEMPT TO SUB-LICENSE, WHETHER ORALLY OR IN WRITING, ANY OTHER PERSON TO USE THE MARKS WITHOUT LICENSOR'S PRIOR WRITTEN APPROVAL.

9. INDEMNIFICATION LICENSEE SHALL INDEMNIFY AND HOLD HARMLESS LICENSOR, ITS EMPLOYEES AND AFFILIATES, FROM AND AGAINST ANY LOSS, DAMAGE OR EXPENSE (INCLUDING REASONABLE ATTORNEYS' FEES) ARISING FROM ANY CLAIM, SUIT, JUDGMENT OR PROCEEDING BROUGHT OR ASSERTED BY ANY THIRD PARTY ARISING OUT OF OR IN CONNECTION WITH: (I) THE MANUFACTURE, SALE, MARKETING OR OTHER DISTRIBUTION OF THE PRODUCTS IN CONNECTION THEREWITH, INCLUDING BUT NOT LIMITED TO LICENSEE'S SALE OR DISTRIBUTION OF THE PRODUCTS THAT GIVES RISE TO ANY CLAIM, SUIT OR PROCEEDING ALLEGING BODILY INJURY; (II) THE BREACH BY LICENSEE OR ITS SUB-LICENSEES OF ANY OF THE TERMS OF THIS AGREEMENT; OR (III) ANY USE OF THE MARKS BY LICENSEE OR ITS SUB

LICENSEES THAT IS NOT AUTHORIZED BY THIS AGREEMENT. LICENSEE'S OBLIGATIONS UNDER THIS SUBSECTION SHALL SURVIVE THE TERMINATION OR EXPIRATION OF THIS AGREEMENT.

10. ADVERTISING LICENSEE AGREES TO USE ITS BEST EFFORTS TO UNDERTAKE, EITHER DIRECTLY OR THROUGH ITS

SUB-LICENSEES, ADVERTISING, MARKETING AND OTHER PROMOTIONAL ACTIVITIES TO ENHANCE THE VALUE OF THE MARKS.

11. STATUTORY NOTICE

LICENSEE AND ITS SUB-LICENSEES SHALL USE THE MARKS IN CONJUNCTION WITH THE STATUTORY NOTICE OF TRADEMARK REGISTRATION BY INSERTING THE SYMBOL ® WHEN APPROPRIATE, AS REQUESTED BY LICENSOR.

12. INFRINGEMENT

12.1 LICENSEE AND LICENSOR AGREE TO COOPERATE IN THEIR EFFORTS TO DEFEND AND PROTECT THE MARKS AND TO MAINTAIN THE MARKS AS VALID MARKS. LICENSEE SHALL NOTIFY LICENSOR OF ANY POTENTIAL OR ACTUAL INFRINGEMENTS OF THE MARKS AS MAY COME TO LICENSEE'S ATTENTION. IN THE EVENT OF ANY POTENTIAL OR ACTUAL INFRINGEMENT, LICENSOR SHALL

HAVE THE OPTION, AT ITS EXPENSE, TO TAKE ANY LEGAL ACTION OR OTHER MEASURES TO PROTECT THE MARKS AGAINST SUCH INFRINGEMENT. IN THE EVENT LICENSOR DETERMINES NOT TO TAKE ACTION TO PROTECT THE MARKS AGAINST INFRINGEMENT OR TO REMEDY ANY INFRINGEMENT, LICENSEE, AT ITS EXPENSE, MAY UNDERTAKE LEGAL ACTION OR OTHER MEASURES TO PROTECT THE MARKS AGAINST SUCH INFRINGEMENT. THE PARTIES SHALL COOPERATE IN PROTECTING THE MARKS AND, AT THEIR OWN EXPENSE, MAY PARTICIPATE IN ANY LEGAL ACTION BROUGHT BY THE OTHER PARTY.

12.2 IN THE EVENT THAT ANY CLAIM OR LAWSUIT IS BROUGHT AGAINST LICENSEE OR ITS SUB-LICENSEES ARISING OUT OF USE OF THE MARKS BY LICENSEE OR ITS SUB-LICENSEES, LICENSEE WILL PROMPTLY NOTIFY LICENSOR OF ANY SUCH CLAIM OR LAWSUIT.

13. TERMINATION

13.1 THIS AGREEMENT SHALL CONTINUE IN FORCE AND EFFECT FOR FIVE (5) YEARS. THIS AGREEMENT SHALL BE RENEWABLE EACH YEAR THEREAFTER ON THE SAME TERMS AND CONDITIONS AS PROVIDED HEREIN UPON THE CONSENT OF LICENSOR AND LICENSEE, WHICH SHALL BE DEEMED TO

HAVE BEEN RECEIVED UNLESS A PARTY NOTIFIES THE OTHER PARTY OF ITS INTENT NOT TO RENEW, OR NOT TO RENEW ON THE SAME TERMS AND CONDITIONS, AT LEAST NINETY (90) DAYS PRIOR TO THE SCHEDULED EXPIRATION DATE. THE RENEWED AGREEMENT SHALL TAKE EFFECT UPON EXPIRATION OF THE PRIOR AGREEMENT.

13.2 UPON TERMINATION OF THIS AGREEMENT FOR ANY REASON, ALL RIGHTS AND PRIVILEGES GRANTED TO LICENSEE HEREUNDER SHALL IMMEDIATELY TERMINATE, AND LICENSEE, ITS TRUSTEES, RECEIVERS, SUCCESSORS OR ASSIGNS SHALL HAVE NO FURTHER RIGHT TO USE OR LICENSE OTHERS TO USE ANY OF THE MARKS; PROVIDED, HOWEVER, THAT LICENSEE MAY HAVE ONE (1) YEAR AFTER SUCH TERMINATION WITHIN WHICH LICENSEE AND ITS SUB-LICENSEES MAY USE UP ALL EXISTING MATERIALS BEARING THE MARKS. LICENSEE ALSO AGREES THAT WITHIN ONE (1) YEAR AFTER SUCH TERMINATION IT AND ITS SUB-LICENSEES SHALL (I) DESTROY OR RETURN TO LICENSOR ALL DESIGNS, STATIONERY, LABELS, PACKAGING AND OTHER PROMOTIONAL MATERIALS, AND ADVERTISING OF EVERY KIND USING ANY OF THE MARKS; AND (II) REFRAIN FROM MARKETING, SELLING OR OTHERWISE DISPOSING OF ANY PRODUCT BEARING THE MARKS UNLESS SUCH MARKS ARE FIRST REMOVED OR OBLITERATED.

14. MISCELLANEOUS

14.1 THIS AGREEMENT SHALL BE SUBJECT TO AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE ENGLAND AND WALES AND SUBJECT TO THE JURISDICTION OF THE COURTS OF ENGLAND AND WALES..

14.2 PARAGRAPHS 3 AND 8 SHALL SURVIVE TERMINATION OF THIS AGREEMENT.

14.3 ALL NOTICES, REQUESTS AND OTHER COMMUNICATION TO ANY PARTY HEREUNDER SHALL BE PROVIDED IN THE MANNER SET FORTH IN SCHEDULE C.

14.4 ANY PROVISION OF THIS AGREEMENT MAY BE AMENDED OR WAIVED ONLY IF SUCH AMENDMENT OR WAIVER IS IN WRITING AND SIGNED BY THE PARTIES HERETO. NO FAILURE TO EXERCISE A RIGHT OR DELAY IN EXERCISING A RIGHT SHALL BE DEEMED TO BE A WAIVER OF SUCH RIGHT.

14.5 IN CASE ANY PROVISION OF THIS AGREEMENT IS HELD TO BE INVALID OR UNENFORCEABLE, THE VALIDITY OF THE REMAINING PROVISIONS OF THIS AGREEMENT SHALL NOT BE AFFECTED OR IMPAIRED.

14.6 HEADINGS AND CAPTIONS USED IN THIS AGREEMENT ARE INCLUDED FOR CONVENIENCE OF REFERENCE ONLY.

14.7 THIS AGREEMENT MAY BE SIGNED IN COUNTERPARTS, EACH OF WHICH SHALL BE AN ORIGINAL, WITH THE SAME EFFECT AS IF THE SIGNATORIES THERETO AND HERETO WERE UPON THE

SAME INSTRUMENT.

GOVERNMENT OF ETHIOPIA

BY:

NAME:

TITLE:

DATE:

LICENSEE

BY:

NAME:

TITLE:

DATE:

2009]

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SCHEDULE A

MARK	COUNTRY	APP. NO. FILING DATE	REG. NO. REG. DATE	STATUS
HARAR	Australia	1185016 29/06/2007	----	PENDING
HARRAR	Canada	916799 06/10/2005	916799 09/28/2005	REGISTE RED
HARAR	European Union	4348777 03/18/2005	4348777 02/14/2006	REGISTE RED
HARAR	Japan	2005-084162 09/08/2005	----	PENDING
HARAR or HARRAR in Japanese	Japan	2005-084166 09/08/2005	----	PENDING
HARAR	United States	78/589319 03/17/2005	----	PENDING
HARRAR	Australia	1185004 29/06/2007	----	PENDING
HARRAR	European Union	4348736 03/18/2005	4348736 03/23/2006	REGISTE RED
HARRAR	Japan	2005-084163 09/08/2005	----	PENDING
HARRAR	United States	78/589312 03/17/2005	----	PENDING
SIDAMO	Australia	1185015 29/06/2007	----	PENDING
SIDAMO	Canada	916800 06/10/2005	916800 09/28/2005	REGISTE RED

SIDAMO	European Union	4348751 03/18/2005	-----	PENDING
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MARK	COUNTRY	APP. NO. FILING DATE	REG. NO. REG. DATE	STATUS
SIDAMO	Japan	2005-084164 09/08/2005	4955561 05/26/2006	REGISTE RED
SIDAMO in Japanese	Japan	2005-084167 09/08/2005	4955563 05/26/2006	REGISTE RED
SIDAMO	United States	78/589307 03/17/2005	-----	PENDIN G
YIRGACHEF FE	Australia	1185005 29/06/2007	-----	PENDIN G
YIRGACHEF FE	Canada	916798 06/10/2005	916798 09/28/2005	REGISTE RED
YIRGACHEF FE	European Union	4348744 03/18/2005	4348744 02/14/2006	REGISTE RED
YIRGACHEF FE	Japan	2005-084161 09/08/2005	4955560 05/26/2006	REGISTE RED
YIRGACHEF FE in Japa- nese	Japan	2005-084165 09/08/2005	4955562 05/26/2006	REGISTE RED
YIRGACHEF FE	United States	78/589325 03/17/2005	3126053 08/08/2006	REGISTE RED

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SCHEDULE B

(SAMPLES OF LICENSEES PACKAGING INCORPORATING THE MARKS OR COPIES THEREOF)

SCHEDULE C

ALL NOTICES AND OTHER COMMUNICATIONS RELATED TO THIS LICENSE AGREEMENT SHALL BE IN WRITING AND SHALL BE DEEMED GIVEN UPON RECEIPT IF DELIVERED PERSONALLY OR BY FACSIMILE (ANSWER BACK RECEIVED), OR ONE BUSINESS DAY AFTER BEING SENT BY EXPRESS MAIL OR COURIER, OR THREE BUSINESS DAYS AFTER BEING SENT BY REGISTERED OR CERTIFIED MAIL, RETURN RECEIPT REQUESTED, POSTAGE PREPAID TO THE PARTIES AT THE FOLLOWING ADDRESSES (OR SUCH OTHER ADDRESS FOR A PARTY AS SHALL BE SPECIFIED BY LIKE NOTICE, PROVIDED THAT SUCH NOTICE SHALL BE EFFECTIVE ONLY UPON RECEIPT THEREOF).

LICENSOR

GOVERNMENT OF ETHIOPIA EMBASSY OF ETHIOPIA ATTN:
GETACHEW MENGISTIE 3506 INTERNATIONAL DRIVE, NW
WASHINGTON, DC 20008 FAX: 202-587-0195

WITH A COPY TO: ARNOLD AND PORTER ATTN:

SIMON BENNETT TOWER

42 25 OLD BROAD STREET LONDON EC2N 1HQ UNITED KINGDOM
FAX: +44 (0)20 7786 6299

LICENSEE

WITH A COPY TO:

IX. APPENDIX B

Int. Cl.: 30

Prior U.S. Cl.: 46

Reg. No. 3,381,739

United States Patent and Trademark Office

Registered Feb. 12, 2008

TRADEMARK
PRINCIPAL REGISTER

SIDAMO

GOVERNMENT OF ETHIOPIA (ETHIOPIA NATIONAL GOVERNMENT)
SUDAN STREET, P.O. BOX 2490
ADDIS ABABA, ETHIOPIA

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

SEC. 2(F).

FOR: COFFEE, IN CLASS 30 (U.S. CL. 46).

SER. NO. 78-589,307, FILED 3-17-2005.

FIRST USE 12-31-1928; IN COMMERCE 12-31-1928.

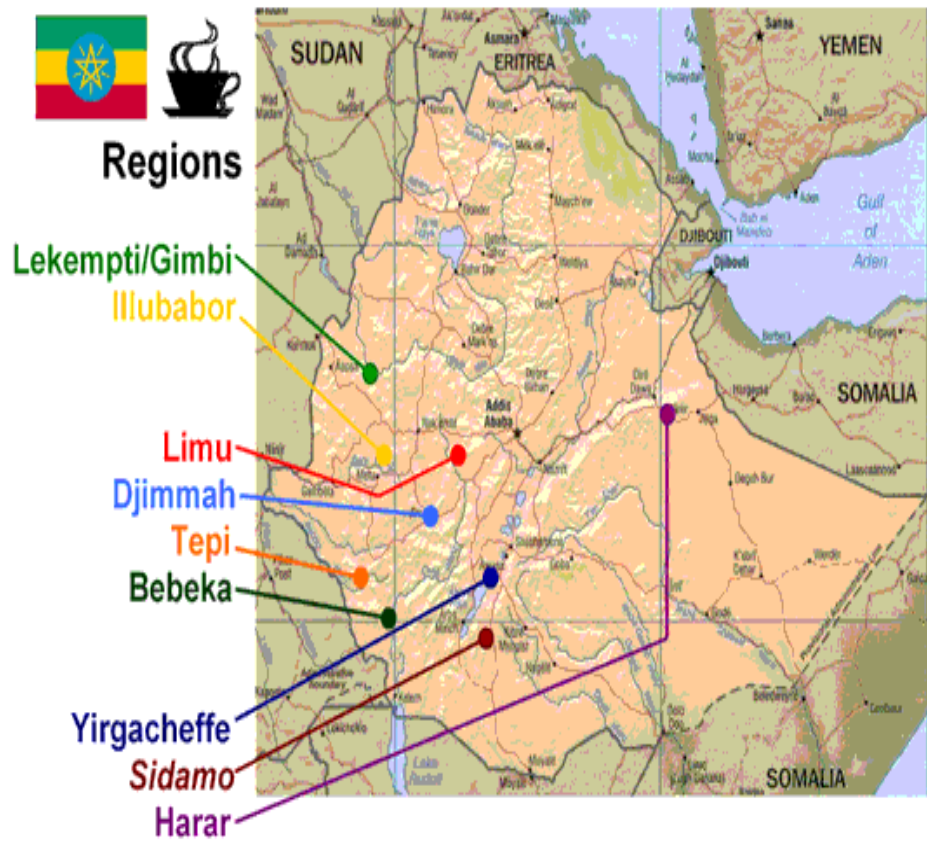
WILLIAM VERHOSEK, EXAMINING ATTORNEY

X. APPENDIX C

REGIONS OF ETHIOPIA'S SPECIALITY COFFEE:
SIDAMO, YIRGACHEFFE, HARAR

FROM:
[HTTP://WWW.TREECROPS.ORG/
COUNTRY/ETHIOPIA.ASP#SPECI
ALTY](http://www.treecrops.org/country/ethiopia.asp#specialty)





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