



2019 Study Question

Submission date: May 20, 2019

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Consumer survey evidence

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National/Regional Group	Independent members
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I. Current law and practice

Please answer the below questions with regard to your Group's current law and practice.

1.a Is consumer survey evidence in principle admissible in trademark proceedings? Please answer YES or NO.

Jurisdiction: Mozambique
Yes

Please Explain

1.b Are there specific statutory provisions in your law governing consumer survey evidence?

If YES, what do they state and do they specifically concern trademark matters or do they have a more general nature?

Jurisdiction: Mozambique
No

Please Explain

If you have answered NO to Q1)a), please skip Q2)-Q5) and proceed to Q6); If you have answered YES to Q1)a), please proceed to Q2).

2.a Is consumer survey evidence admitted in all types of trademark proceedings (see also para. 13 in the full text of the Study Guidelines which can be found at the top of this webpage)?

Yes

Please Explain

2.b If consumer survey evidence is not admitted in all types of trademark proceedings, in which types is it admitted and in which types is it not (e.g. opposition proceedings, revocation, proceedings, infringement proceedings)?

3.a What can consumer survey evidence prove or help prove (e.g. confusion, acquired distinctiveness; see also para. 14 in the full text of the Study Guidelines which can be found at the top of this webpage)?

Jurisdiction: Mozambique

The degree of descriptiveness or distinctiveness, evidence of reputation, evidence of deception or confusion, the extent of any free-riding, dilution or other negative impact on goodwill, and the extent of any harm or damage to the rights holder.

3.b What is consumer survey evidence most used for in practice to prove or help prove (e.g. confusion, acquired distinctiveness; see also para. 14 in the full text of the Study Guidelines which can be found at the top of this webpage)?

Jurisdiction: Mozambique

Evidence of deception or confusion and the extent of any harm or damage to the rights holder.

4.a Are there specific requirements for surveys, e.g. as to the way of conducting the survey (e.g. internet or email survey, telephone survey, shopping mall interrupt surveys), the number and selection of respondents, the appropriate form and order of survey questions and the use or nature of controls? If so, which?

No

Please Explain

4.b If your answer to Q4a) is NO, what characteristics do surveys generally have, e.g. as to the way of conducting the survey, the number and selection of respondents, the appropriate form and order of survey questions and the use or nature of controls?

Jurisdiction: Mozambique

- effective survey question design
- effective survey response strategy
- meaningful data summary
- effective data display and reporting.

5.a Are specific percentages of respondents answering certain questions required or sufficient to prove certain items? If so, which?

No

Please Explain

5.b What percentages of respondents answering certain questions are typically deemed insufficient?

6 Is the court or IP office involved in the set-up of the survey, or can it be, and, if so, to what extent?

No

Please Explain

7 What weight or value is generally given by the court or IP office to consumer survey evidence, if such is admitted, and which factors are relevant in considering the extent of such weight or value?

Jurisdiction: Mozambique

N/A

II. Policy considerations and proposals for improvements of your Group's current law

8 Could any of the following aspects of your Group's current law or practice relating to consumer survey evidence be improved? If YES, please explain.

8.a Types of trademark proceedings in which survey evidence is admissible;

Jurisdiction: Mozambique

No

Please Explain

8.b What survey evidence can prove or help prove;

Yes

Please Explain

8.c Requirements of surveys;

No

Please Explain

8.d The application, or lack thereof, of bench-mark percentages;

No

Please Explain

8.e The weight or value given to consumer survey evidence.

Yes

Please Explain

9 Are there any other policy considerations and/or proposals for improvement to your Group's current law falling within the scope of this Study Question?

No

Please Explain

III. Proposals for harmonisation

Please consult with relevant in-house / industry members of your Group in responding to Part III.

10 Do you believe that there should be harmonisation in relation to consumer survey evidence?

No

Please Explain

**If YES, please respond to the following questions without regard to your Group's current law or practice.
Even if NO, please address the following questions to the extent your Group considers your Group's current law or practice could be improved.**

11 Should consumer survey evidence in principle be admissible in trademark proceedings? Please answer YES or NO.

No

Please Explain

2.a Should consumer survey evidence be admitted in all types of trademark proceedings (see also para. 13 in the full text of the Study Guidelines which can be found at the top of this webpage)?

No

Please Explain

2.b If consumer survey evidence should not be admitted in all types of trademark proceedings, in which types should it be admitted and in which types should it not be admitted (e.g. opposition proceedings, revocation, proceedings, infringement proceedings)?

Jurisdiction: Mozambique

Admitted – opposition proceedings, court proceedings, infringement proceedings
Not admitted - revocation proceedings

13 What should consumer survey evidence be allowed to prove or help prove (e.g. confusion, acquired distinctiveness; see also para. 14 in the full text of the Study Guidelines which can be found at the top of this webpage)?

Jurisdiction: Mozambique

The degree of descriptiveness or distinctiveness, evidence of reputation, evidence of deception or confusion, the extent of any free-riding, dilution or other negative impact on goodwill, and the extent of any harm or damage to the rights holder.

14 Should there be specific requirements for surveys, e.g. as to the way of conducting the survey (e.g. internet or email survey, telephone survey, shopping mall interrupt surveys), the number and selection of respondents, the appropriate form and order of survey questions and the use or nature of controls? If so, which?

No

Please Explain

5.a Should specific percentages of respondents answering certain questions be required or deemed sufficient to prove certain items? If so, which?

No

Please Explain

5.b What percentages of respondents answering certain questions should be deemed insufficient?

Jurisdiction: Mozambique

N/A

16 Should the court or IP office be involved in the set-up of the survey and, if so, to what extent?

No

Please Explain

17 What weight or value should be given by the court or IP office to consumer survey evidence, if such is admitted, and which factors should be relevant in considering the extent of such weight or value?

Jurisdiction: Mozambique

The value given by the Court of IP Office to a consumer survey should be given because it firms specific information about positive and negative perceptions, which could improve marketing or sales efforts. In Mozambique the most relevant aspects of a survey are: how long the brand has been in the market, what is the target consumer, what is the price of the product, how to have access to the product, if the product is easily available and its presence in the market sustained in a stable matter.

18 Please comment on any additional issues concerning any aspect of consumer survey evidence you consider relevant to this Study Question.

19 Please indicate which industry sector views provided by in-house counsel are included in your Group's answers to Part III.

Jurisdiction: Mozambique

Industry sectors most targeted in Mozambique:

- Automobile industry
 - Consumer electronics
 - Industrial equipment
 - Tobacco industry
 - Brewing industry
 - Textile industry
 - Telecommunications
 - Food industry
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