

Top law firm to mark centenary

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The rise and rise of Adams and Adams

Adams and Adams, firmly rooted in Pretoria since its inception and one of South Africa's leading firms in intellectual property law, will next year celebrate its centenary.

From humble beginnings in Bureau Lane in 1908, Adams and Adams is now represented in more than 50 African countries through long-established associates.

It all started with Reverend Henry Adams, father of Harry and EV (who would establish the law firm Adams and Adams), arriving in the Transvaal in 1875 to lay down roots for the Church of England.

By 1890, however, Reverend Adams had lost his faith, resigned from the church and settled in Pretoria to do secretarial work.

He died in 1893, leaving his wife Jemima Amelia to provide for their five children by running a boarding house.

The spirit that would prevail in the law firm Adams and Adams was evident in Mrs Adams.

Youngest son EV would later write: "My mother conducted a boarding house so well that she was able to take us five children to England for Queen Victoria's Diamond Jubilee. (She) placed Harry and Melville at school there and sent my sisters to a finishing school in Brussels."

Eldest son Harry returned to Pretoria in 1905. After deciding that there was no future in the Transvaal for a civil engineer, his career of choice, he decided to become an attorney.

He married Mary Crawford, daughter of Hugh Crawford, Speaker of the Transvaal parliament.

Within a few days of his admission as an attorney in 1908, Harry opened his own office in Bureau Lane. At that stage each province of

the then Union of South Africa had its own patent, trademark and copyright laws. This meant that companies had to apply for their patents and trademarks separately in the Cape, Natal, Transvaal and Orange Free State.

In 1916, the South African government passed the Act on Patents, Designs, Trademarks and Copyright, unifying all the previous provincial acts and making it possible to file a single application for patent, trademark and design registration in Pretoria.

Since that time, Adams and Adams has become a well-known name in the trade.

It is the largest law practice in South Africa dealing with all aspects of intellectual property law, although the firm also offers various other legal services, including general commercial law, high court litigation and property law.

The present chairman, Alan

Smith, said it differed from other law firms in that it specialised in certain fields.

Being one of the biggest firms in the country, it has 418 employees, including 49 partners and 12 senior associates.

The firm is also one of the best-known intellectual law firms in the world, as it represents many international clients. Smith said apart from the expertise the firm offered, it was also more cost-effective to use a South African law firm.

"Although the international law on intellectual property differs slightly from ours, we keep tabs on what happens around the world and update our information all the time."

Smith, who has been with Adams and Adams for 33 years, said things had changed over the years, with the biggest change being in communication. The firm introduced one of the first fax

machines in the country to speed up things.

One of the challenges the firm faces is finding suitable people, as its work is specialised.

Smith said that was why the firm did its own training - to try and develop creative skills.

He said a very small percentage of the legal profession entered this niche market.

It was not simply a matter of appointing someone with a law degree - rather it was finding an engineer or a scientist who was interested in studying and practising law.

Adams and Adams also prides itself on its BEE and female appointments.

Smith said at least 50% of their employees were from previously disadvantaged groups and a large percentage were women.

His message to young lawyers: "If you want to fit into a niche market, you have to train and go the extra mile. A client will not tolerate mediocrity. They expect lawyers who are experts."

ADAMS & ADAMS

LITIGATION HIGHLIGHTS

■ Acting on behalf of Edgars, which wanted to adopt the Victoria's Secret underwear brand for its local stores, Adams & Adams fought the case up to the appeal court.

As South Africa was isolated from the rest of the world and the Victoria's Secret brand was not known in South Africa, the court said that, unless copyright was infringed or there was another illegal act, the mere appropriation of a foreign trademark would not be improper.

■ Kodak left the country for commercial reasons during apartheid and a local company felt that Kodak had abandoned the trade mark.

Adams & Adams defended the matter on behalf of Kodak, arguing that the international photographic equipment giant had no intention of not coming back to South Africa and Kodak defended its trademark against local appropriation. The court found that there was no evidence that Kodak intended to hinder legitimate trade or was acting spitefully or maliciously by retaining its registrations.

■ In another case there were two trademarks in the pharmaceutical field that had similar sounding names. The one product was used to slow down a person's heart rate, the dosage being two drops from a medicine dropper. The other product was a general antibiotic, dosed in teaspoons.

An international pharmaceutical company instructed Adams & Adams to bring an urgent application to have the antibiotics taken off the shelves. The first step was to go to pharmacists, heads of hospitals and doctors who gave affidavit evidence that this was a dangerous situation.

The fear was that if the two products were confused and someone took a larger dose of the heart medication, the person could die. The law firm rushed to the court on a Friday, but the judge said the matter was not that urgent.

On the Sunday the firm heard that a child in ICU had been given two teaspoons of the wrong medicine. Adams & Adams was back with evidence of the incident on Monday in front of the same judge, who granted the order without delay. The respondent had to send out telegrams to every supplier to say that the product should be withdrawn immediately.

The judge's reaction? He sent his

son to Adams & Adams as an article clerk.

■ Then there was the confusing custard case. A client had built up a reputation for its pre-prepared custard that was packaged in a yellow box bearing pictures of cows. A competitor sold custard in a similar-sized yellow box, also with pictures of cows. The brand names were, however, totally different established marks.

The Adams & Adams attorneys acting on behalf of the established brand argued that the consumer walking into a shop would grab a yellow box of custard and not necessarily read the trademarks.

The Adams & Adams team went into court with two stacks of custard and set them out as they would appear on the shop shelves. The display proved that the two products would be confused and Adams & Adams won the case.

■ The firm also sorted out the matter of the matching mayonnaise jars. It never ended up in court, but was ruled upon by the Advertising Standards Authority (ASA). It involved matching mayonnaise jars. Nestlé packaged its Crosse & Blackwell mayonnaise in a glass jar with a green lid and red, green and cream label.

A competitor then put a comparable product on the market in similar-coloured packaging, although there were distinctive trademarks on both.

The ASA ruled in favour of Adams & Adams's client Nestlé by arguing that the array of similar-looking products on the shelves would ride on the attraction of the original product.

■ South Africa's most famous brand, Nelson Mandela and the Nelson Mandela Foundation, is among the more recent clients whom Adams & Adams has represented.

Mandela, through the foundation, claims trademark rights in various elements of his name and image and the firm has represented him on various occasions in protecting these rights.

■ Probably their most famous case recently is the "You can't laugh it off" trademark case. Adams & Adams represented SABMiller in seeking an order restraining Laugh It Off Promotions from selling a t-shirt bearing the mark "Black Labour, White Guilt, Africa's lusty lively exploitation since 1652".



□ Alan Smith



□ Adams and Adams has grown from humble beginnings and now has representatives in 50 African countries.