

Starbucks vs. Ethiopia

The country that gave the world the coffee bean and the company that invented the \$4 latte are fighting over a trademark, says Fortune's Stephan Faris.

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(Fortune Magazine) -- To produce a pound of organic sun-dried coffee, farmers in the southern Ethiopian village of Fero spread six pounds of ripe, red coffee cherries onto pallets near their fields. They sun the fruit for 15 days, stirring every few minutes to ensure uniform dryness, then shuck the shells.

Last season, that pound of coffee fetched farmers an average price of \$1.45. Figuring in the cost of generator fuel, bank interest, labor and transport across Ethiopia's dusty roads, it netted them less than \$1. In the U.S., however, that same pound of coffee commands a much higher price: \$26 for a bag of Starbucks' roasted Shirkina Sun-Dried Sidamo.



Getachew Mengistie, general director of the Ethiopian intellectual property office drinks coffee in Addis Ababa, Ethiopia.



PHOTO: GUY CALAF/WPN

An Ethiopian specialist tastes coffee to determine its quality at the main coffee processing center in Addis Ababa.



PHOTO: GUY CALAF/WPN

A worker sweeps coffee beans fallen from broken bags in the main coffee mill in Addis Ababa.

BEAN BATTLE

Ethiopia

The country, one of the poorest in the world, wants to trademark the names of three coffee-growing regions to force companies that sell its beans to sign licensing agreements and to gain higher prices for its produce. Starbucks, the U.S. company, says Ethiopia should instead seek geographic certification, which allows distributors to use the name in their branding.

The price differential, says Getachew Mengistie, head of Ethiopia's Intellectual Property Office, is evidence that his country has been unable to capitalize on what he calls its intellectual property. The Fero coffee is an extreme example, but it's not the only one. Ethiopia's specialty beans routinely retail abroad for three times the price of ordinary coffee.

Getachew, who like most Ethiopians goes by his given name, argues that if the higher rates were simply the product of investments in roasting, packaging or marketing, distributors could do the same with any coffee. Since they don't, he says, some of the extra value must originate where the beans are grown. "There is clearly an intangible value in the specialty coffee of Ethiopia," he says. "But it's not being captured here."

The conflict

That observation put the country that is the birthplace of the coffee bean on a collision course with the company that gave the world the \$4 latte. The conflict began in March 2005, when Ethiopia filed with the U.S. Patent and Trademark Office to trademark the names of three coffee-producing regions: Yirgacheffe, Harrar and Sidamo, where Fero is located.

It was an attempt to use tools usually reserved for corporations in developed economies to wrest profit from their distributors. By seizing control of these brands, the Ethiopian government planned to force those who sell its coffee into licensing agreements, eventually obtaining a larger share of the sales.

But in the case of Sidamo, Starbucks had got there first, with an application the year before to trademark Shirkina Sun-Dried Sidamo. Until that application was resolved, Ethiopia's claim could not go forward. The country asked Starbucks to drop its claim but received no answer for more than a year, says Kassahun Ayele, Ethiopia's ambassador to the U.S. at the time: "They said, 'You have to talk to our lawyers.'"

Grinding out success next to Starbucks

The coffee company's objection was to Ethiopia's choice of intellectual-property protection. Trademarking is an unusual, though not unprecedented, choice for a geographic region. It gives the holder the exclusive right to use the name in branding, but it doesn't place any requirements on the product. Instead, Starbucks argues, Ethiopia would be better served by another form of protection, called geographic certification, used for such products as

Idaho potatoes, Roquefort cheese and Florida oranges. It guarantees that the product comes from the stated region but allows others to use the name in their branding. Jamaican Blue Mountain and Kona coffees have geographic certifications. "I can't name one case where there are trademarks for coffee," says Dub Hay, senior vice president for coffee and global procurement at Starbucks.

Ethiopia doesn't deny that its choice is unorthodox, countering that its industry, in which 95 percent of the coffee is produced by two million subsistence-level farmers, is too unwieldy and impoverished to take on the administrative burden required to guarantee geographic origin. "If you set up certification, you have to bear the cost," says Ron Layton, head of Light Years IP, a nonprofit intellectual-property consultancy that has been advising Ethiopia.

More to the point, certification wouldn't require distributors to seek permission to use the names in their branding. Starbucks, for instance, could still sell Shirkina Sun-Dried Sidamo, as long as its beans came from the region. "It doesn't give you that control over the market," says Getachew.

To blunt some of the opposition, Ethiopia has said it will not ask for royalties for its trademarked beans. The initial licensing requirements would be simply to label the beans prominently on the package and help in the promotion of Ethiopian coffee. "When demand for Ethiopian coffee grows, we will be able to ask for higher prices," says Getachew. Only if that strategy fails, he says, would other options, such as minimum prices, be pursued.

For Starbucks, the scenario is a potential public relations disaster, pitting the coffee company, which had record revenue of \$7.8 billion last year, up 22 percent over 2005, against one of the world's poorest countries. The Seattle company has no shops in Ethiopia or indeed in sub-Saharan Africa, but Starbucks does source 2 percent of its beans from Ethiopia, accounting for 2 percent of the country's crop. It has also spent \$2.4 million in investments and loans in Ethiopia since 2002. "We need these coffee farmers to be in business," says Hay.

The farmers

Nobody is arguing that the farmers have it easy. In a UN ranking of human development, Ethiopia placed 170th out of 177 countries. A recent visit to

Fero found most coffee farmers working without shoes. Their clothes were ripped. Most live in mud huts with thatched roofs and subsist on the fruits and vegetables they grow. "We are angry," says Teshome Debigo, a 28-year-old farmer. "But to whom can we cry?"

This year the cooperative that manages the Fero farmers' production and sales produced 300,000 pounds of coffee. If the coffee sells as it did last year, each of the cooperative's 2,432 farmers will net about \$120 - the total yearly cash earnings for themselves and, on average, four other family members. Another \$20 per farmer is captured by the cooperatives and unions, which goes toward infrastructure and administration. Starbucks awards \$15,000 to the producers of its premium lines. In Fero that amounts to about \$6.20 per farmer.

For some in Ethiopia, the trademark effort is the next step in the fair-trade movement, in which distributors like Starbucks voluntarily set a bottom price for green coffee, allowing farmers to ride out slumps in the commodity price. The added revenue from fair-trade coffee, of which Starbucks is the largest buyer in North America, allowed the farmers in Fero to bring electricity to their village from the power grid 2.5 miles away.

But unlike fair trade or other types of aid, trademarking would not rely on the beneficence of the buyer. According to calculations by Oxfam, which has taken up Ethiopia's cause, if trademarking pushed prices of specialty coffee up 80 cents a pound, Ethiopia would stand to gain \$88 million a year. "We don't want help," says Tadesse Mesekele, manager of the Oromia Coffee Farmers Cooperative Union. "We want a good price for the coffee."

Gray areas

Ethiopia has registered all three names in Canada and two in both Europe and Japan. But in the U.S., those seeking to trademark geographic names - rather than to certify them - walk a narrow line. Consumers must associate the name with qualities independent of its physical origin. But the word can't be so widely used that it refers to products other than those offered by the holder of the trademark. "Washington State apples" fails the first test. "French fries" would fail the second. The gray areas are broad, and much depends on the persuasiveness of the lawyers and the judgment of the examining attorney. "Everything turns on the way that consumers understand things," says Roger Schechter, a professor at George Washington University Law School.

Ethiopia's three applications are being handled separately, and last summer Yirgacheffe made it through. But Sidamo and Harrar hit stumbling blocks. In June, Starbucks dropped its application for Shirkina Sun-Dried Sidamo, which it says was a limited-time offering. But two weeks earlier the National Coffee Association, a trade group whose government-affairs committee is chaired by Starbucks' Dub Hay, had submitted a letter of protest to the Trademark Office, successfully arguing that the names were commonly used to refer to coffee and thus could not be trademarked. Starbucks says it learned of the letter only later. "There was no committee meeting on this whatsoever," says Hay. Association officials declined to be interviewed, but the organization said in a statement that the matter "was not brought to the attention of the NCA by any of its members."

In November, Starbucks CEO Jim Donald met with Ethiopian Prime Minister Meles Zanawi in Addis Ababa but failed to reach an agreement on the trademark issue. "They don't explain what their concerns are," says Getachew.

Ethiopia is appealing the rulings in the U.S. "Nobody says, 'Let's go get a cup of Sidamo' and mean just any coffee," says Roberta Horton, an intellectual-property expert at Arnold & Porter, a Washington, D.C., law firm representing Ethiopia. On February 19, Starbucks announced it would not oppose Ethiopia's trademark efforts. But the company continues to maintain that certification is more appropriate for coffee.

Starbucks says that if Yirgacheffe's trademark is challenged, it too will be canceled. "It's our understanding that the U.S. Patent Office did not know it was a geographic region," says Hay.

Few in Ethiopia understand the intricacies of trademark law, but in a country where coffee accounts for 60 percent of exports, those who sell to Starbucks are spooked. "There are two things we have to think about: the rights of the farmers and the market," says Ashenafi Argaw, export head of the Sidamo Coffee Farmers Cooperative Union, to which Fero's farmers belong. "We'd prefer these things to be resolved smoothly."

The outcome of the case will be closely watched. Ethiopia's Intellectual Property Office has nine more types of coffee it would like to protect, and other countries or industries might be tempted to follow suit. "Anytime you

see a picture of a farmer or a member of an indigenous community on a product, it raises the question of what it is that consumers value in it," says Seth Petchers, coffee manager at Oxfam America. Ethiopia's effort could turn out to be just the first drip in a very large pot.