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# Upholding the Place of Character Merchandising in Cameroon: Re-igniting its Essence in Today's Business Era

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## ABSTRACT

*With the advent and growth of intellectual property models, merchandising of character becomes a crucial aspect in the business world. This is so as commerce has much to do with the techniques of sales and marketing, to which there is the urge to promote products and services through standardized methods of commercializing, in conformity with the rules on customer care and satisfaction. Therefore, it is in this light that character merchandising is considered a practice whereby personality traits such as image, name, sound, or appearance of a certain character is used to brandish, promote and/or advertise a product or service with the aim of benefiting from it (financial or material gain). Although overlooked within the intellectual property framework, this aspect of IP has far reaching effects in the economy of most countries today, and as such requires its valorizations. Findings reveal that there hasn't been any specific legislation/provision for character merchandising, which for the most part impedes the concrete understanding and growth of this concept/practice. Hence, it is the objective of this research to ascertain the place of character merchandising in Cameroon, with a view to expounding and understanding its prospects and challenges. To this effect, this paper makes use of the doctrinal research methodology, drawing from primary and secondary sources of data. It is therefore recommended among others that, there is need to revitalize and promulgate the practice of character merchandising in Cameroon, especially through well-defined legal provisions pertaining thereto.*

**Keywords:** Character, Merchandising, Business, Era, Cameroon.

## I. INTRODUCTION

There has been a growing trend of businesses making use of personalities and characters in their marketing, brandishing and/or advertising strategies. This aspect leans heavily on the tendency for businesses to promote and valorize products or services rendered or sold to the public. Reason why one may be tempted to say that almost all of us, at some point, have been

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guilty of splurging hard-earned currency on a ‘not so worthy’ product just because a favourite celebrity endorses it.<sup>2</sup> Today, many business operators have as primordial objective to enhance/attract customers to their products or services through personality attributes of real or fictional characters. This is often the case with famous personalities, celebrities and/or characters such as (footballers, pop stars, artists, movie stars, renowned business tycoons, and even cartoon characters like Tarzan etc) who are being placed at the forefront of brands, which in several instances takes the form of endorsements. This is why an author posited that advertising, influencing, endorsements are modern marketing strategies employed to enhance the growth of a business,<sup>3</sup> Also pointing to the fact that the unmatched advancement in the marketing industry in the recent years has demonstrated how the popularity of products and services can expand due to the reputation of well-known, real or fictional characters, which particularly implies that characters are more successful than standard brands at establishing trust, which results in increased product sales.<sup>4</sup> It is this trust that makes it possible for the advertisement of these characters to be regarded as more integrable into interactive marketing strategies than traditional marks, which is especially significant in today’s social media. And it is by virtue of this that they have a much higher recognition and identification value.<sup>5</sup>

However, this concept of character merchandising is aged long, but was not really felt at its inception due to limited usage and the fact that it was not directly commercial, until the 20th century when the phenomenon developed rapidly and now we can relate this aspect widely in several spheres of economic operations.

As an organized system, character merchandising originated and was initiated in the United States of America in the 1930s in the Walt Disney Studios in Burbank (California). In this regard, when this company created its cartoon characters comprising of Mickey, Minnie and Donald, one of its employees named Kay Kamen established a department specialized in the secondary commercial exploitation of these characters, and when he did so, it became surprising to many how massive and productive this venture was, because he succeeded in granting a good number of licenses for the manufacturer and distribution of low-priced mass market merchandise (posters, T-shirts, toys, buttons, badges and even drinks).<sup>6</sup> This singular

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<sup>2</sup> Nishant K & Sandeep H.M (2012) “Character Merchandising” *Journal of Intellectual Property Rights*, vol. 17, p 454.

<sup>3</sup> Oluwatobiloba O.O & Dorcas A.O (2022) “Laws and Rights: Analysing the Legal Regime of Character Merchandising in Nigeria” *Nnamdi Azikiwe University, Akwa Journal of Commercial and Property Law*, vol. 9(2), p 23.

<sup>4</sup> Maurya P.K (2022) “Character Merchandising: Trademark and Copyright Issue Involved” *Social Science Review Network (SSRN)*, p. 1.

<sup>5</sup> *Ibid*, p. 2.

<sup>6</sup> World Intellectual Property Organization (WIPO) [https://www.wipo.int/pdf/character\\_merchandising](https://www.wipo.int/pdf/character_merchandising), accessed

initiative of Mr. Kay spurred in many the desire to upgrade their marketing/distribution strategies to tally with this mode of business operation.

Ideally, the concept of character merchandising can be defined as the adaption or secondary exploitation by the creator of a fictional character or by a real person or by one or several authorized third parties, of the essential personality features of a character in relation to various goods/or services with a view to creating in prospective customers a desire to acquire those goods and/or to use those services because of the customers' affinity with that character.<sup>7</sup> Therefore, in the context of character merchandising, it is primarily the essential personality traits that are easily recognized by the public that will be relevant. These personality traits include, for example, a character's name, image, appearance, or voice, as well as symbols that allow such characters to be recognized.<sup>8</sup> This brings us to the various forms of character merchandising which principally include merchandising of fictional characters, personality merchandising and image merchandising.

As far as merchandising of fictional characters is concerned, we are looking at merchandising which is done with the use of especially cartoon characters originating from artistic works like that of Cinderella or Pinocchio, or in cinematographic works like Mickey Mouse, Batman, Alice in Wonderland, and even film characters that have been reproduced or adapted as a cartoon for the purpose of marketing/advertisement of goods and services. These characters amongst others are being licensed and reproduced in T-shirt's, toys, shoes, drinks and many other products and/or services for merchandising purposes.

Personality merchandising on the other hand makes use of real persons in product or service marketing, advertisement or sales. These real characters portrayed on products and services are mostly celebrities or well-known personalities who give consent of their essential personality features (name, voice, appearance) to be used in merchandising. This is why this aspect has mostly been termed reputation merchandising. The real persons here seldom come from sports, cinema, music and other professions, which makes it possible for customers to realistically relate and interest in those products/goods based on their respective favorite celebrities endorsed. A case in point where the personality trait of a real person was used is

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April 9, 2025.

<sup>7</sup> Dashaco J.T (2021), Lecture Notes on International Intellectual Property Law, University of Dschang, unpublished. See also World Intellectual Property Organization (WIPO) <https://www.wipo.int/pdf/character/merchandising>.

<sup>8</sup> Swetha M & Hemelatha R (2023) "Character Merchandising under Copyright Law in India: A Legal Study Intellectual Property Law" *International Journal of Creative Research Thoughts (IJCRT)*, vol. 11, issue 4, p. 173.

seen in the case of *D.M. Entertainment Pvt, Ltd, v. Baby Gift House and Ors*<sup>9</sup>, where the Delhi High Court upheld the singer's transfer of trademark on his firm. In this case, the defendant was selling Daler Mehndi-like dolls that danced to his famous tunes, and the court found that this was passing off. The court held that an individual's right to publicity is his prerogative and that only he can authorize or disallow commercial exploitation of his likeness or other aspects of his personality.<sup>10</sup>

However, a more recent trend of merchandising now exist which acts as a go between merchandising of fictitious characters and the merchandising of personalities. This concept is known as image merchandising, which particular involves making use of fictional film or television characters, played by real actors, in the marketing and advertising of goods or services. Examples of this concept of image merchandising include, Frankenstein's monster by Boris Karloff, Columbo played by Peter Falk, McGyver played by Richard Dean Anderson. All these are cases in point where characters portrayed in fictional programs or films/television are used on products like T-shirts, bags, shoes etc.

From the above analysis, it is clear that the concept of character merchandising is a practical one. Looking at its nature and forms, one would unavoidably see its relevance in today's global economy and trade.

## **II. THE RELEVANCE AND LEGAL PROTECTION FOR CHARACTER MERCHANDISING IN CAMEROON**

Commerce occupies a prominent place in Cameroon, and it has been regarded as one of such areas of the economy that tend to offer majority of the population with at least an average means of sustenance. Stemming from the development of global commercial practices, character merchandising has much to do in our Cameroon context. It has increased product/service valorization and profit to businesses and enterprises within the country since many persons prioritize certain brands mostly related to real celebrity/famous personalities over others with less affinity. This is common with the advent of endorsements on products by famous personalities such as musicians, football legends, athletes, film/movie stars, high ranked officials of the state and even rich and renowned businessmen/entrepreneurs. Take the case of famous football legends like Samuel Eto'o and Cristiano Ronaldo, who have both endorsed products like drinks, clothing, etc, where we find their images and sometimes names portrayed in these products, hence increasing the purchase rate and turnover for such goods.

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<sup>9</sup> [MANU/DE/2043/2010.

<sup>10</sup> Melby V.G (2024) "An Analysis on the Concept of Character Merchandising under Trademark Law from An Indian Perspective" *International Journal For Legal Research and Analysis*, vol. 2, issue 7, p. 7

This goes same with renowned musicians like Petit Pay, Davido, Fally Ipupa, and entrepreneurs like Aliko Dangote<sup>11</sup>, who respectively engage in endorsements. Customers are therefore lured by products bearing these personalities based on their affinity to them. Worthy of note is the place that the notion of endorsement represents in character merchandising.

As aforementioned, the concept of endorsement has much to do with character merchandising in that they both leverage the appeal and recognition of individuals to promote products or services. Both concepts are therefore driven by the idea that consumers are more likely to purchase products or services that are associated with individuals they admire, trust, or find attractive. This makes endorsements an essential feature of character merchandising, which of course can be categorized under personality merchandising per se. All these makes character merchandising of essence within the Cameroonian economy and beyond.

#### **A. Legal Framework for Character Merchandising in Cameroon**

Since the practice of character merchandising has far-reaching effects, it is imperative to ascertain the laws governing such an activity. Realistically, there isn't a single piece of national or international convention or set of laws that exclusively governs character merchandising in Cameroon. It is generally governed by intellectual property laws comprising of mostly copyright and trademark laws. However, some laws as seen below proves relevant in ensuring the legal protection of this practice.

##### **i. National Instruments for the Protection of Character Merchandising**

Several national instruments ties to character merchandising in Cameroon, and for which acts as a legal framework for its protection. The following are examples of such laws;

##### **\*The Cameroon Copyright Law (Law no 2000/011 of December 19, 2000 on Copyright and neighboring rights)**

This law is illustrative for character merchandising in that it protects creators of literary, artistic, dramatic and musical works. The result of this is that creators of fictional characters for example can lean on this aspect of the law to secure their literary or dramatic characters reflected in the products they license or endorse for sales/marketing. This is why the law clearly states that it shall protect all literary or artistic works, irrespective of the mode, worth,

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<sup>11</sup> He has been involved in endorsements, though not in the traditional sense of endorsing a product or brand through advertising. His endorsements are more related to business acquisitions, government initiatives, and philanthropic efforts. As such, he has publicly endorsed the acquisition of companies like Savannah Sugar Company by Dangote Sugar Refinery. Similarly, his foundation, the Aliko Dangote Foundation is involved in various philanthropic initiatives, including supporting persons with disabilities, providing scholarships, and contributing to infrastructure projects.

genre or purpose of the expression<sup>12</sup>. The implication of this is that the creators/authors shall have certain attributes pertaining to their works such as exclusive rights derivative from it.<sup>13</sup> It therefore gives creators of fictional characters exclusive rights of ownership and exploitation vis-à-vis all other persons. A typical aspect of this law also has to do with its punishment to infringement of rights of creators or holders of such rights. To this effect, the law sanctions the offence of forgery of another's work in all its ramifications as seen in its section 80-91. The penalty prescribed under this law to infringement includes amongst others imprisonment and fine (section 82).

**\*The Cameroon Law on Advertisement (Law no 2006/018 of 29 December 2006 regulating advertisement in Cameroon)**

It is to be noted that character merchandising and concept of advertisement play a complementary role in that for character merchandising to be considered absolute, the product or service merchandised must be advertised. It makes the Cameroon law on advertisement relevant to the practice of character merchandising. In effect, the law organizes advertising activities, defines the rules on the form and content of advertising messages, sets the general framework for the oversight and regulation of such activities, and penal provisions relating to advertisement. This law defines advertisement to be an assortment of procedures and techniques aimed at attracting the attention or curiosity of an audience by informing it about a good or service, to convince people to buy it, use it or adopt it.<sup>14</sup> From this definition, there is an indication that advertising is a corollary to character merchandising, for there can be no proper character merchandising without advertisement.

**\*The Cameroon Criminal Law**

Acting as the primary piece of legislation for the punishment of offenders, the Cameroon Criminal Law also has its relevance in ensuring that infringers of rights of creators, owners or legal licensees are brought to book for their violations. It is for this reason amongst others that the Penal Code<sup>15</sup> is often used as a point of contact in addressing punitive measures against offenders/violators. In this regard, the 2006 Advertisement Law of Cameroon for example, equally punishes violators with the provisions of article 222, 225, 280, 240, 241 and 344 of the Cameroon Penal Code. This also applies same with the Cameroon Copyright Law which for severally of its provisions makes recourse to the Penal Code to enhance its punitive

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<sup>12</sup> Section 3(1) of Law no 2000/011 of December 19, 2000 on copyright and neighboring rights.

<sup>13</sup> *Ibid*, section 13(1).

<sup>14</sup> Article 3(9) of law no 2006/018 of 29 December 2006, regulating advertisement in Cameroon.

<sup>15</sup> Cameroon Penal Code of Law no 2016/007 of 12 July 2016 relating to the Penal Code.

measures.

## **ii. International Instruments for the Protection of Character Merchandising**

Several legal instruments also exist at the international level that also has provisions touching on the protection of the practice of character merchandising. These instruments also give force or legal backing towards the protection of the practice in Cameroon. They include the following;

### **\*World Intellectual Property Organization (WIPO) Agreement on Character Merchandising**

Being of great impact in today's world, intellectual property activists championed the need for an international governing body for intellectual property issues. This amongst others caused the promulgation of the convention establishing the World Intellectual Property Organization (also known as the WIPO Convention signed in Stockholm in 1967 and entered into force in 1970. It had as principal mission to promote international cooperation for the protection and promotion of intellectual property rights. This convention gave birth to a series of agreements on intellectual property issues, to which the aspect of character merchandising falls. This was relevant and timely as currently there isn't any direct international instrument governing character merchandising. To this effect, the WIPO Agreement on character merchandising proves illustrative as it clearly elaborates and gives in-depth explanations on the concept and practice of character merchandising. This text begins with a vivid explanation on notion of character merchandising, along with its concept, further proceeding to the forms of legal protection, and scope of protection of the practice. This piece acts essential in rendering an understanding of the entire practice of C.M.

### **\*Berne Convention for the Protection of Literary and Artistic Works 1971**

This is another important piece of legislation adding to the protection of character merchandising in Cameroon, particularly the protection of creators or originators of literary or artistic works reflected in fictional or physical form (fictional merchandising). The law deals with the protection of works and the rights of their authors. It provides creators such as authors, musicians, poets, painters etc. with the means to control how their works are used, by whom, and on what terms. It is based on three basic principles<sup>16</sup> and contains a series of

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<sup>16</sup> a) These principles comprise of; works originating in one of the Contracting States (that is, works the author of which is a national of such a state or works first published in such a State) must be given the same protection in each of the other contracting states as the latter grants to the works of its own nationals(principle of national treatment).

b) Protection must not be conditional upon compliance with any formality (principle of automatic protection)

c) Protection is independent of the existence of protection in the country of origin of the work (principle of



provisions determining the minimum protection granted, as well as special provisions available to developing countries that want to make use of them. It also establishes minimum standards<sup>17</sup> of copyright protection for literary and artistic works across member countries, ensuring that works are protected as soon as they are fixed in a tangible form. This law has therefore proven to be relevant in the business of character merchandising as it equally offers some protection to creators, originators or legal licensees with their works and the form in which they are expressed.

### **\*Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPS Agreement)**

This agreement<sup>18</sup> being fundamental within intellectual property frameworks and complementing other intellectual property laws, has as objectives to facilitate trade by providing effective protection for intellectual property rights (IPRs), reduce trade distortions, and ensure that enforcement of IPRs does not create trade barriers. It also aims to promote technological innovation and the transfer and dissemination of technology. The agreement establishes general provisions and basic principles (part one), standards concerning the availability, scope and use of intellectual property rights (part two), enforcement of intellectual property rights (part three), acquisition and maintenance of intellectual property rights and related inter-partes procedures (part four), dispute prevention and settlement (part five), transitional arrangement (part six) and institutional arrangement and final provisions (part seven). This piece is equally instrumental as far as the protection of character merchandising is concerned because it gives an inclusive protection through enforcement of rights of creators/originators or licensees in the practice of character merchandising, especially as it relates to copyright and trademark protection.

### **\*Bangui Agreement on the Creation of an African Intellectual Property Organization (OAPI) 1977 as revised in 1999**

Generally, this agreement seeks to establish a unified system for protecting intellectual property rights across its member states<sup>19</sup> in Africa. This includes implementing common

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independence of protection), if, however, a contracting state provides for a longer term of protection than the minimum prescribed by the convention and the work ceases to be protected in the country of origin, protection may be denied once protection in the country of origin ceases.

<sup>17</sup> Minimum standard here relate to the works and rights to be protected, and to the duration of protection; a) as to works, protection must include “every production in the literary, scientific and artistic domain, whatever the mode or form of its expression, b) this will include exclusive rights of authorization and moral rights associated therein.

<sup>18</sup> Adopted on April 15 1994 and entered into force on January 1, 1995.

<sup>19</sup> The OAPI as it is commonly termed in its French acronym is a Union of 17 primarily French-speaking African countries that are members of the Bangui Agreement. These countries are: Benin, Burkina Faso, Cameroon,

administrative procedures for industrial property protection and promoting the protection of literary and artistic works. It also aims to foster economic development by safeguarding intellectual property rights and promoting training and knowledge dissemination in this area. This law acts as an indispensable piece regulating intellectual property in Cameroon, especially as it offers benefits to creators or owners of characters with possibility of redress against violation of their rights, and can hence obtain protection for their intellectual property assets in multiple countries, including Cameroon, through a single and uniform filing procedure. This reduces costs and time frames for obtaining protection. An added support that this agreement accords character merchandising in Cameroon is that the OAPI accepts trademark applications for products, services, collective trademarks, and collective certification trademarks. This means character owners can protect their brands and logos in Cameroon. This agreement therefore proves significant in the domain of protecting character merchandising in Cameroon.

### **III. THE RIGHTS AND RESPONSIBILITIES OF OWNERS AND LICENSEES OF CHARACTERS IN A CONTRACT OF CHARACTER MERCHANDISING**

It behooves that as in any other contract or commercial undertaking, there exist rights and responsibilities of the parties involved therein. This makes it of essence to look at owners and licensees rights and responsibilities in the practice of character merchandising.

#### **A. The Owner, Creator or Originator of Character**

The business of character merchandising cannot effectively and exhaustively be discussed or spoken of without due regard to the rights and responsibilities of owners or creators of such characters portrayed as fictional or personality figures. These aspects are seen below;

##### **a. Rights**

As concerns the rights of owners or creators, they are generally spelt out and protected by copyright and intellectual property laws. These rights include among others the right to personality, right to publicity, right to privacy, right to license, right to profit, and right to quality.

##### **i. Personality/Publicity Right**

Character merchandising often involves licensing agreements where the rights holder/ owner (the character creator or the individual) grants permission to use the character's personality for

commercial purposes. This ensures that the character's identity is not used inappropriately or without their consent. In effect, this right is considered to be an individual's legal right to control the commercial use of their identity, such as their name, image, likeness, or other distinguishing traits. Each person has the fundamental right to govern the commercial exploitation of his/her identity.<sup>20</sup> According to this notion, each individual's character and personality is a merchantable asset, and the right to determine how to economically exploit it is completely vested in that individual.<sup>21</sup> This right is crucial in character merchandising because it determines who can use a character's personality features (like their name, appearance, or voice) to promote and sell products and services.

#### **ii. Right to Privacy**

Privacy concerns are primordial in every commercial undertaking. This aspect too has its impact in businesses that deal with the practice of character merchandising. The right to privacy, particular in the context of character merchandising refers to the legal protections individuals have against the unauthorized exploitation of their name, image, and likeness for commercial purposes. This makes it of essence for owners/creators to ensure the safeguard of this right against infringement, by instituting redress measures as right holders in the occurrence of violation of their privacy.

#### **iii. Right to Profit**

Owners/creators equally have the right to profit from the commercial exploitation of their character expressed especially in the form of merchandise. This right is considered to be the legal and practical ability of copyright or trademark holders to exploit fictional or real characters for commercial gain through the creation and sale of merchandise. This essentially means that the character's name, image, or other identifying features can be used on products like toys, clothing, and other items to generate revenue. This right is essential as even those who provide their personality for merchandise benefit royalties from the commercial use of any of their personality traits.

#### **iv. Right to License**

This generally involves the legal authorization granted to a third party (licensee) to use the intellectual property (IP) rights, such as trademark, copyrights, or character designs, of a

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<sup>20</sup> Sainath S (2022) "The Right to Personality and its Interplay with Intellectual Property Laws: An International Analysis of Character Merchandising" *International Journal of Law Management & Humanities*, vol. 5, issue 5, p. 991. It assumes that any conduct that violates this right is an unfair trading practice. The issue generally is the potential loss of the image's prospective economic worth as a result of unauthorized usage.

<sup>21</sup> *Ibid.*

licensor (the original creator or owner) for commercial purposes. This allows the licensee to create, market, and sell products featuring the licensed character or other IP, typically for a specific period and in a defined territory. This right is essential because it draws a line between the licensor's rights and that of the licensee's in the commercial use of a character. The licensee cannot therefore act out of his scope of responsibility under the license agreement.

#### **v. Right to Quality**

This is another fundamental right in character merchandising in that the creator or original owner of character must ensure the quality of the characters used for merchandise. The personality attributes must therefore be such that encumbrances are not placed on them, and that the uses of such characters are not subject to any infringement procedure. This will go a long way to guarantee the fair use of such characters.

#### **b. Obligations**

In character merchandising, owners generally have obligations regarding copyright, trademark, and design rights, including ensuring their characters are original and unique for copyright protection, registering trademarks to protect their brand identity, and potentially registering designs for unique visual elements. They must also ensure their characters are used legally, through licensing agreements or assignments and take action against infringement. The point of ensuring the uniqueness of characters for protection was arrived at in the case of *Arbaaz Khan v. North Star Entertainment Pvt. Ltd*<sup>22</sup>, where the Bombay High Court established that the copyrightability of a character depends upon its uniqueness. In deciding whether copyright exist in character Chulbul Pandey from the Dabangg movies, the court held that copyright subsist as long as the character has unique traits and if the literary work in which the character was written and developed was copyrightable and distinct in nature.

### **B. The Licensee**

The licensee equally has rights and obligations originating from the contract of character merchandising. This permits the licensee to carry out his activity with the character licensed in line with the contract terms of the owner, which clearly stipulates these rights and responsibilities.

#### **a. Rights**

Because the licensee is legally authorized by the owner to carry out business with the

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<sup>22</sup> See also the case of *Star India Pvt. Ltd. V. Leo Burnett*

character or personality feature(s) of a real or fictional character, he too has rights derivative of the original owner of that character. These rights include the following.

**i. Right to Use**

Within the license agreement, the licensee is granted permission to use a character's likeness, name, or other distinctive attributes for commercial purposes, typically for a specific period and in specific territory. This agreement outlines the scope of use, including the types of products, goods, and services where the character can be featured. The licensee must adhere to the terms of the license, ensuring quality control and brand consistency. This agreement may as well grant the licensee exclusive rights within a specific territory or product category, meaning no other licensee can use the character for those purposes.

**ii. Design and Production Right**

The licensee equally has the right to design and produce merchandise featuring the character, within the parameters outlined in the license agreement. It is also incumbent on the licensee to respect the guidelines and standards associated with this right. This also goes to say that their design and production activities must comply with all relevant intellectual property laws. This right is fundamental as it permits the licensee with the capacity to adopt products that are benefiting for character merchandise.

**iii. Right to Market and Sale**

With licenses for character merchandising, a licensee gains the right to market and sell products featuring a character or other intellectual property owned by the licensor. This agreement allows the licensee to create, distribute, and sell merchandise featuring the character, typically for a specific period and in a defined territory. But this also must be done following the stipulated terms and conditions of the license agreement. By this, the licensee is expected to ensure that the licensor's brand is presented appropriately.

**b. Obligations**

Beside the licensee's rights in a typically contract of character merchandising, he also has obligations that must be respected.

**i. Obligation to Pay Royalties**

This is an essential obligatory attribute for all authorized/licensed users of fictional or real characters in a contract of character merchandising. This right is a crucial aspect of their agreement with the licensor. The licensee gains the right to use the licensor's intellectual property (IP), like characters and trademarks, in exchange for financial consideration known

as royalties, according to a character merchandising agreement. These royalties are typically calculated as a percentage of the licensee's sales or revenue derived from using the licensed IP. The character merchandising will also specify when the royalties are due, often on a monthly or quarterly basis, according to a merchandise license agreement. Also, the licensor often has the right to audit the licensee's records to verify royalty payments and ensure compliance with the agreement.

**ii. Quality Control Obligation/Obligation to Maintain Standard and Reputation**

In character merchandising, the licensee's primary quality control obligation is to ensure that the products produced and distributed meet the standard set by the licensor, maintaining the character's integrity and reputation. This involves adherence to defined quality standards, adherence to production processes, and compliance with any required inspections or audits. Typically, the licensor will define specific quality standards for the merchandise, including materials, manufacturing processes, and overall aesthetics. The licensee must understand and agree to these standards before entering into the agreement, and it's crucial to communicate the standards clearly to all relevant employees. This is an important obligation for the licensee in a contract of character merchandising.

**iii. Compliance Obligation**

Generally, the licensee has the primary obligation to comply with all terms and conditions of the agreement of character merchandising. To this effect, the licensee's primary compliance obligation is to uphold the quality standards, adhere to the agreement's terms, and respect the licensor's intellectual property. This includes ensuring products are of good quality, meeting the licensor's standards, paying royalties on time, and avoiding unauthorized uses of the licensed property. Additionally, the licensees must comply with all applicable laws and regulations. This obligation is equally essential as it binds the licensee to the agreement met with the licensor.

#### **IV. CLAIMS RESULTING FROM CHARACTER MERCHANDISING**

In every commercial or business undertaking, there exist situations where disputes arise, which necessitate parties in conflict (especially the aggrieved) to reach settlement. By this, the practice of character merchandising is not left out of this scenario as claims against transgressors, violators or offenders may come up in order to maintain a certain level of balance for the offended. A look at such claims is therefore worthwhile.

### **A. Defamation**

As contextually defined, defamation is a civil wrong that occurs when false statements are made about a person or entity that harms their reputation. In this sense, defamation can intersect with character merchandising when a character's image or likeness is used in a way that damages the character's reputation, or the reputation of the person associated with the character, by false and malicious statements. Ideally, unlicensed use of a character's image or likeness in a way that suggest the character or the person associated with it endorses a product or service that is unlawful or morally repulsive could be considered defamatory. Similarly, a character's image could be used in advertising that makes false claims about the character or the person associated with it, potentially causing harm to their reputation. Also, the use of celebrity image or likeness in advertising, particularly if it is used to promote a faulty or substandard product, can also be a source of defamation if the celebrity's reputation is damaged by the false claim. Therefore, while character merchandising can be a legitimate and profitable business practice, it is essential to be aware of the potential for defamation. False statements or misleading advertising can have serious legal consequences for the character and the individual associated with it, and those making the statements may be held liable for damages.

### **B. Copyright Infringement**

This occurs when someone uses a copyrighted character's name, image, or likeness without the owner's permission for commercial purposes. This includes creating and selling merchandise, such as t-shirts, toys, or other items, featuring the character. This is why most often, fictional characters, especially those from literary works, are primarily protected under copyright law, and unauthorized commercial use can lead to legal action. This also applies to using a celebrity's name and likeness in advertising for a product without their consent. This is a fundamental claim in character merchandising as it goes a long way to prevent further unauthorized use of a character without lawful consent.

### **C. Trademark Infringement**

Generally, trademark infringement is considered to be the unauthorized use of a registered trademark or service mark. In character merchandising, it occurs when someone else uses a character's name, image, or likeness without permission, thereby potentially leading to consumer confusion about the source of the product or service or still confusion with the original character owner or their products. This can happen through the authorized use of a trademark, service mark or copyright on products or services, creating a situation where

consumers might mistakenly believe there is a connection between the unauthorized use and the original character owner.

## **V. LEGAL ACTIONS AVAILABLE TO VICTIMS OF VIOLATIONS RELATING TO CHARACTER MERCHANDISING**

Ideally, violations cannot exist without redress measures available to victims of offenses associated with the business of character merchandising. As such, remedial measures here will include the following.

### **A. Damages**

Damages are basically the most common form of redress in civil matters, and it refers to the monetary compensation awarded to a party who has suffered a loss or injury due to the wrongful act or breach of duty of another party.. In the realm of character merchandising, where the unauthorized use of characters and their associated intellectual property can lead to financial losses and reputational damage, damages serve as a crucial redress measure. This means that a character's creator or the owner of the IP can pursue legal action to recover financial losses and compensate for reputational harm caused by the unauthorized merchandising of their character. This acts as an essential remedy for violations of any aspect of intellectual property.

### **B. Injunction**

An injunction can be a powerful tool for redress in character merchandising cases, especially when intellectual property rights are infringed. It is a court order that mandates or prohibits a party from engaging in a specific action, such as producing or selling infringing merchandise. The injunction can therefore stop the unauthorized use of a character's name, image, or likeness on products and services. As regards copyright infringement, if a character's design or features are copied and used on merchandise without permission, an injunction can prevent further sales and distribution of the infringing products. For trademark infringement, an injunction can stop the unauthorized use of a character's trademark (e.g name, logo) on products or services. Similarly, an injunction can also be granted with regard to passing off, as in where a character's likeness is used to create a false impression that a product or service is endorsed or associated with the character. The injunction here has the tendency to prevent consumers from being misled.



## **VI. CHALLENGES AND PROSPECTS OF CHARACTER MERCHANDISING IN CAMEROON**

Character merchandising in Cameroon faces challenges like the absence of a clear and specific legislation for character merchandising, limited awareness of the industry and financial constraints. However, prospects are promising, with growing local brands, opportunities for creative businesses, and potential for economic growth.

### **A. Challenges**

Several challenges to the business of character merchandising in Cameroon exist, as seen below;

#### **i. Absence of a Clear and Specific Legislation for Character Merchandising**

This acts as an essential constraint that impedes the growth of character merchandising in Cameroon. As of now, Cameroon has no clear and specific legislation on character merchandising. The existing legal framework may not adequately address the specific needs of the character merchandising industry, hence even making it difficult for proper enforcement. This also boils to the fact that there isn't a single international convention or set of laws that exclusively governs character merchandising. The practice is generally governed by intellectual property laws like trademark, copyright and design laws. Therefore, this factor serves as a serious hindrance to the growth and development of this practice. However, it is believed that by updating the legal framework to address the specific needs of the character merchandising industry can help facilitate growth and innovation in this area and can accord better protection in the event of disputes.

#### **ii. Limited Awareness**

There is limited awareness among consumers and potential businesses about the benefits and opportunities of character merchandising. This slows down or makes it difficult for stakeholders to engage in the practice. It is believed that investing in sensitization programs and publicity schemes will enable the population get accustomed with the practice, therefore encouraging its usage.

#### **iii. Financial Constraints**

Many small and medium-sized enterprises (SMEs) in Cameroon face financial challenges, making it difficult to invest in design, production, and marketing. It is believed that providing financial assistance, training, and mentorship to local creators can help them develop their businesses and compete in the market. Also, by engaging with international organizations and

companies in the business can provide access to resources, expertise, and markets for character merchandising.

## **B. Prospects**

Despite the challenges faced with the business of character merchandising, there are prospects for its development or advancement in Cameroon based on the following factors.

### **i. Growing Local Brands**

If the business of character merchandising is encouraged through a well-defined legal framework for that purpose and availability of resource distribution and allocation for businesses and creators, there will be the growing trend of local creators and artist developing their own characters and merchandise, creating opportunities for innovation and growth. This will equally go a long way to provide jobs and economic opportunities for local talent.

### **ii. Economic Growth and Opportunity for Licensing**

By leveraging local characters, the industry can contribute to economic growth through increased sales, tourism, and brand recognition. Companies too can leverage existing characters to expand their product lines and reach new markets. This, they can do by granting licenses that permits use of an IP right holder's character on products, usually in exchange for royalties in the sale and distribution of merchandise. This also gives the possibility of businesses to leverage the popularity of characters to promote goods and services.

## **VII. CONCLUSION**

There is essence in the business of character merchandising which makes this industry primordial for consideration and support. Although being of limited usage in our Cameroonian context, there is the likelihood for its development and growth in subsequent time. This research piece therefore explored the possibility of upholding the practice in Cameroon, especially taking cognizance of its economic importance such as allowing companies to leverage the popularity of characters to boost sales, extend their reach, and create a memorable consumer experience. Hence, by associating products with beloved characters, businesses can tap into a wider market and increase product appeal. However, this significance of character merchandising cannot be effectively realized without taking into consideration the challenges that beset its usage in Cameroon. Therefore, creating an enabling environment for its growth is essential for a sustained and fruitful practice. As such, it is recommended amongst others that establishing and enforcing legal frameworks for character merchandising in Cameroon is therefore worthwhile.