

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAIROBI
MILIMANI LAW COURTS
COMMERCIAL AND TAX DIVISION
COMM CASE NO. 501 OF 2017

BETWEEN

BATA BRANDS SA.....1ST PLAINTIFF
BATA SHOE COMPANY(KENYA) LIMITED.....2ND PLAINTIFF
AND
UMOJA RUBBER PRODUCTS LIMITED.....DEFENDANT

JUDGMENT

Introduction and Background

1. By a Plaintiff dated 20th December 2017, the Plaintiffs("Bata") filed a suit against the Defendant("Umoja") in which Bata states that they are and have been the designer and owner of school shoes manufactured, sold, and advertised under the trademark "Touguees" for the last 15 years. According to Bata, the said shoe is characterized by a special, distinct, and unique shape, design, configuration, pattern, features and appearance. Bata allege that in January 2017, they became aware of the fact that Umoja was manufacturing, distributing, selling school shoes branded "Shupavu" which embody a design identical or substantially confusingly similar to that of Bata. That Umoja had reproduced and copied the alleged distinctive design shape, and that it was passing off its shoe as that of Bata. Bata