



Customs recordal of trademarks in Tanzania

Is there a customs recordal in Tanzania?

In Tanzania, the customs recordal system is not formal as in there is no law that requires to do a customs recordal of Trademarks in the sense that for example in some countries in Africa they have specific Customs recordal regulations and aimed at spotting and seizing counterfeit from the recordals.

is there Customs Recordal in the Neighbouring countries?

For example Kenya apart from the specific anti-counterfeiting legislation like the one in Tanzania they have a Customs Recordal system. Upon receiving the relevant documentation meeting the requirements for the recordal and the Anti-counterfeit Authority (ACA) is satisfied with the correctness and accuracy of the application, the ACA will disclose the IP particulars with customs officials at the border. This ensures that no goods are imported or exported to or from Kenya without being inspected by the officials and therefore provides brand holders and/or owners with quick and effective recourse in dealing with infringers as well as counterfeit goods.

Is it mandatory to record IP rights at the customs?

There is no recording of IP rights as such at the Customs. You have to first have your TM registered with the TM registry and inform of any counterfeits/incoming containers to FCC who will then with the joint task forces of Customs, Police and at times National Security to coordinate. However there is no provision whereby you can have a record of your TM at the customs pending future protection unless you suspect incoming counterfeit.

What is the best route for trademark infringement and protection against counterfeits?

FCC is the best route for protection. The Merchandise Marks Act of 1963 (operationalized only since in 2005) specifically prohibits the importation of counterfeits. The Fair Competition Commission (FCC), housed under the Ministry of Industry and Trade, is charged with protecting the intellectual property rights in Tanzania.

It is the role of the customs department to act in furtherance of the request made by the complainant and intercept any pirated or counterfeit imports. It is also the role of the customs to conduct consultation with both parties to derive a mutually acceptable solution. Failure to do so shall result in transferring the keys to the public prosecutor. During this time, it is the role of the customs to withhold and detain the goods until a final



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determination of their true nature is made.

Since the fair competition commission, i.e., the FCC is responsible for protecting the intellectual property rights, the complainant company that may be the owner of the brand or its legal representative may send a letter requesting the FCC to take action in furtherance of such a request to intercept pirated goods in contravention with the intellectual property laws. You have to have the Trademarks registered in Tanzania. Our firm ABC Attorneys can assist with the registration of Trademarks in Tanzania.

Are there fines?

If the goods detained or seized are found to be infringing the intellectual property rights of the rights holder, the FCC conducts a consultation procedure wherein the suspected offender can choose to sign a confession and pay a fine, which ranges from TZS 200,000 to TZS 8 million, depending on the value of the confiscated goods which are also to be destroyed. Where such a consultation does not bear fruitful results, the case is forwarded to the Director of public prosecution for eventual submission to the court of law. If the offender is found guilty and convicted, he may end up being sentenced to jail for a period ranging from 04 to 15 years or imposed a fine of between TZS 10-50 million (\$5,000 - \$25,000), or both the jail term and a fine.