



Since time immemorial ownership of property was sacred right after the collapse of communal mode of production. Individual property was protected by all means however the kind of property that enjoyed protection was land and other tangible valuables. It wasn't until the industrial revolution which sparked another rising class as opposed to the existing ruling class of bourgeoisies, that intangible property sort protection. This era marked an age of authors, artist, writers, plays, merchants and other sort of businesses. The artist needed their works to be protected from piracy whereas law was passed to protect it from dishonest persons which brought about the term copyright the same went to businesses whereas due to competition in business in order to stop dishonest person from trading on another person's name trade mark law was also passed. The same was also witnessed in the field on innovations whereas patent laws were passed to protect innovators work.

Intellectual property is known as the property which is the product of the mind. According to the law property is what a person has a legal title to it. Therefore intellectual property deals with property of the mind. Intellectual property refers to creation, invention, literal or artistic work, symbols, names, images.etc

COPYRIGHT LAW

Is a set of exclusive rights, which are granted to the author or creator of the original work. They are the right to copy, adapt and the right to distribute the work. Copy right doesn't protect the idea itself it protects the expression of that idea. Copy right protection applies to a specific period of time whereas it extends to 50 years after the author has passed away.

Copyright in Tanzania was first introduced by virtue of the Copyright Ordinance of 1924 the first copyright legislation. 5 years after independence the Copyright Ordinance was repealed and Act no. 61 of 1966 was enacted. The basis of copyright protection is that it protects artistic work, however such work has to be in written form and the author must show that the work originated from him.

In 1999 the Act was repealed to enact **The Copyright and Neighbouring Rights Act**. This is up to date with **Revised Edition Cap 218 of 2002**. The objective of the Act by virtue of section 2 of the respective Act is to:-To promote literal and artistic work and to safe guard expression of traditional culture.

TRADEMARK/ SERVICE MARK LAW

Trademark/Service mark is a sign capable of being represented graphically capable of distinguishing goods or services of one undertaking from those of another undertaking.



Tanzania trademark/service mark are governed by

- Trade and Service mark act 1986 cap 326 (R.E 2002)
- The Merchandise Marks Act, cap 85 (R.E 2002)
- The Penal Code cap 16 (R.E 2011)

The function of trademarks/service mark is as follows:- Indicates trade/goods origin, Protects consumers from confusion in the market, Protects consumers from deception in the market, Protects the master proprietor from infringement.

Trademarks are registered at BRELA. The following is the procedure:-

- Fill forms
- Pay necessary fees
- Examination

1. Registrability
2. conforms with formalities and regulations

- section 16

1. 60 days of opposition

- Registration if there is no opposition.

Once a trademark is registered and a certificate is given then it is full proof of ownership. It also proves that it is valid. It also shows that it is incontestable existence of the trade mark or service mark.

Geographic marks are names of places which are generally known to the public at large. It is also a place from which goods and services come from Cancellation of trade mark, Opposition of trade mark registration and Concurrent registration

They are remedies for misuse/infringement of trademarks/service marks which are as follows:- Person sued by the trademark owner, Damages, Account of profit, Delivery up, Injunctions, Destruction/forfeiture, Criminal offences.

LAW OF PATENT

These are exclusive rights granted for an invention which is a product or process that provide a new way of doing something or offers a new technical solution to a problem. It is an official document that is issued by the government conferring a right or privilege on the



use of an invention. This is a reward to the person for all skills and hard work that has qualified him to have an invention and the exclusive right of the patent provide a monopoly to prevent other people from: - making; using; selling or Offering to sell the invention.

Patent Infringement is unauthorized practice of patent invention Most cases the infringement occurs when an infringer makes a device similar to the patent. The civil remedies include but are not limited to: - Damages, Injunction or Any other remedy under Civil Code of the Laws of Tanzania.

The Criminal remedies are provided by the government through the Penal Code, Cap 16 Revised Edition 2002.

A person may have a defense in case he/she is accused of patent infringement. Such defenses are: - **Patent invalidity** or conditions for granting the patent were not satisfied. Any interested party can challenge it. This was in the case of Lear Inc v. Adkins 1969 unreported. **Patent misuse** when an patentee uses a patent in order to obtain more market power. In this case the defendant has to prove that the patent misuse or used misrepresentation or fraud to get the patent. **Experimental** by virtue of section 38 of the respective Act.**Expiration of duration.** After 10 years of registering the patent the exclusive rights expires and others may use such innovation. **Doctrine of equivalent.** The defendant must prove that the product is not the same. The patent has no novelty, inventive steps and industrial application.