



## PROTECTION OF INTELLECTUAL PROPERTY ASSETS IN TANZANIA

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In Tanzania, the protection of an application can be achieved through a variety of legal avenues, including trademarks, copyright, and patents. These legal tools offer different forms of protection and are governed by different laws and regulations. In this article, we will explore each of these options and how they can be used to protect an application in Tanzania.

#### **TRADEMARKS**

A trademark is a distinctive sign, symbol, or logo that is used to identify and distinguish the products or services of one business from those of another. In Tanzania, the main legislation for the protection of Trade and Service Marks is the Trade and Service Marks Act, 1986 and Trade and Service Marks Regulations, 2000. For Zanzibar, the main legislation regulating Trade and Service Marks is the Trade Marks Decree, Cap. 159 and Trade Mark Rules, Government Notice No. 52 of 1932 and Government Notice No. 47 of 1955. These legislation provide for the registration of trademarks and the protection of registered trademarks from infringement.

To protect an application using a trademark, the application owner can create a distinctive name, logo, or symbol that will be associated with the application. Once the trademark is registered with the Tanzania Intellectual Property Office (BRELA), the owner will have exclusive rights to use the trademark and prevent others from using a similar mark that may cause confusion among consumers.

Trademark protection is particularly useful for protecting brand identity and preventing others from using a similar name or logo for their own products or services. However, it does not offer protection for the underlying technology or function of the application.

#### **There are several ways that one can consider to follow in protecting his/her trademark from infringement as follows:**

1. Trade / service mark search:

Before registering a trademark, one should consider to conduct an exhaustive trademark. The amount of new brands and marketplaces is increasing rapidly and even the most unique logo or phrase could already be in use by another brand. Trade / service mark search helps to avoid infringing trademarks on existing brands.

2. Registering the Trade/ service mark and use it actively:



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One would want to ensure his/her brand is protected by registering it in the responsible avenues such as BRELA via its ORS. In order to enforce your trademark, it needs to be properly registered. This will ensure one to address imitations if he/she finds others using the brand's trademarks and is an essential step to protect your unique idea. ABC Attorneys is one among the leading Agents for registering trademarks nationally and internationally.

### 3. Trademark monitoring:

Registering one's trademark doesn't mean that his/her brand will be automatically protected. One will continuously have to keep following up online and elsewhere in order to monitor any possible misuse or registration of a similar trademark, which will amount to its infringement. This work can be done manually by the Brand owner or with the help of a trademark monitoring agent like ABC Attorneys.

### 4. Litigation process:

When an infringement of a trademark occurs, it is essential for the Brand owner to address it as quickly as possible via fair competition and litigation process. Infringements can be detrimental to one's brand image that is why protecting a brand is essential. A person suffering from a trademark infringement can seek for a legal help by Contact a legal team such as ABC Attorneys, who can handle infringements and has a capability to represent a client in the court of law. While the legal process may be time-consuming, legal penalties and sanctions can be one way to prevent scammers from further infringing on your trademark.

## **COPYRIGHT**

Copyright is a form of legal protection that applies to original works of authorship, including literary, artistic, musical, and other creative works. In Tanzania, copyright is governed by the Copyright and Neighboring Rights Act, which provides for the protection of copyrightable works and the registration of copyrights.

### **How do you Protect One's Copyright?**

To protect an application using copyright, the application owner can register the creative work at the Copyright Office of Tanzania COOTA, where the user interface, and other creative elements of the application as copyrightable works are being registered. Once registered, the owner will have exclusive rights to reproduce, distribute, and create derivative works based on the application.



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Copyright protection is useful for protecting the creative elements of the application, but it does not offer protection for the basic functionality or features of the application.

Additionally, copyright protection is not available for ideas, concepts, or functional aspects of the application. ABC Attorneys is one of the Agents that assist people in registering their copyrights and obtain their certificates.

Generally, in Tanzania the protection of copyrights is for the life of the author and for fifty years after his death. In case it is joint authorship work, the protection is during the life of the last surviving author and fifty years after his death. However, in the case of a work of applied art, the rights are protected for twenty-five years from the making of the work.

### **Do you know about a Copyright infringement?**

Copyright infringement is the use of copyrighted material without the author's permission as elaborated by the Copyright and Neighbouring Rights Act (the **Copyright Act**).

Copyright infringement may be a result of various circumstances that may be contingent on the nature of the artistic work. For moral rights, circumstances may arise where there are actions such as distribution, mutilation, modification, and other derogatory actions over artistic works where such actions would deteriorate an author's honour and reputation. Other sets of economical infringements may include an unauthorized reproduction of the artistic work in various forms, such as printed publications or sound recordings, unauthorized translation of the artistic work into other languages, unapproved distribution of copies of the artistic work, unapproved public performance of the artistic work, unauthorized broadcasting or other communication of the artistic work to the public, unauthorized adaptation of the artistic work, such as converting a novel into a screenplay and so forth.

### **What are the available remedies for copyright infringement?**

In Tanzania, there are various ways to address an infringement of a protected right. These remedies can be categorized as civil or criminal. Civil remedies include taking legal action to seek an injunction, prohibition, compensation for damages, or seizing and destroying infringing materials. Criminal punishment, on the other hand, involves charging the infringer with an offense and imposing penalties according to the law. It is important to note that criminal punishment may be in addition to civil remedies. Additionally, if the infringement was solely for commercial purposes, the infringer will be subject to criminal punishment.

The Copyright Act provides remedies to the authors who fall victim to copyright are such as;



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### 1. Institution of a suit (litigation)

Authors have the option of instituting civil proceedings before courts of competent jurisdiction in Tanzania upon infringement of their rights under the Copyright Act for reliefs such as injunction and payment of damages suffered. Therefore, the institution of proceedings in court would depend on the nature of the claim to be determined.

### 2. Destruction of unlawfully manufactured or distributed works

This remedy is subject to limitation to the extent that if the source of infringement can be modified in such a way so as to rectify the infringement then the injured party can only require that such measures be taken to that effect. Therefore, the destruction of the works is dependent on the said limitation.

### 3. Right of delivery

Copies and equipment may be delivered to the injured party if he or she requires so, for an equitable price which does not exceed the production cost.

## **PATENTS**

A patent is a form of legal protection that gives the owner exclusive rights to make, use, and sell an invention for a certain period of time. In Tanzania, patents are governed by the Patents Act, which provides for the registration and protection of patents.

To protect an application using a patent, the application owner must show that the application is a new and non-obvious invention that has practical applications. Once the patent is granted by the Tanzania Patent Office in BRELA via the ORS, the owner will have exclusive rights to use and license the invention.

Patent protection is particularly useful for protecting the underlying technology or function of the application, but it requires a high level of novelty and non-obviousness. Additionally, the patenting process can be time-consuming and expensive, and the protection offered by a patent is limited in duration.

### **Conclusion.**

In Tanzania, the protection of an application can be achieved through a combination of legal tools, including trademarks, copyright, and patents. Each of these options offers different



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forms of protection and is governed by different laws and regulations. By understanding the strengths and limitations of each option, application owners can choose the best strategy to protect their intellectual property and ensure that their application is not used or copied by others.