



What amounts to trademark infringement in Tanzania?

Registering a trade mark in Tanzania provides the proprietor with certain exclusive rights. The infringement of these rights entitles him a right to action against the infringer. Pursuant to section 32(1) of the Trade and Service Marks Act, RE 2002 the proprietor's exclusive rights are deemed to be infringed by any person who is not the proprietor of trade mark or registered user thereof uses a sign either:-

1. Identical with or so nearly resembling it as to be likely to deceive or cause confusion, in the cause of trade or business, in relation to any good in respect of which it is registered; or
2. Identical with or nearly resembling it in the course of trade or business in any manner likely to impair the distinctive character or acquired reputation of the trade mark.

The elements for a successful infringement claim have been well established under both statutes and case law. In a nutshell, a plaintiff in a trade mark case has the burden of proving that the defendant's use of a mark has created likelihood-of-confusion about the origin of the defendant's goods or services. To do this, the plaintiff should first show that the defendant is using a confusingly similar trademark in such a way that it creates a likelihood of confusion, mistake and/or deception with the consuming public. The confusion created can be that the defendant's products are the same as that of the plaintiff, or the defendant is somehow associated, affiliated, approved or sponsored by plaintiff.