



## **Trademark Opposition : The Law Procedures and Requirements in Tanzania Mainland**

The [registration of a trademark in Tanzania](#) is, of course, only the first step in the effective use of a chosen brand, company or product name. In order to ensure valuable marks are protected and enforced, brand owners also need to monitor new applications to ensure that those potential trademarks don't infringe or potentially damage their existing rights.

### **Why monitor new applications?**

The early detection of potentially conflicting trademarks is an essential part of any trademark protection strategy, but it is a particular necessity if you are to meet the deadlines associated with submitting objections (known as 'oppositions') to an attempted registration by a third party. In general, such oppositions need to be filed within a short period of time. Challenging trademarks after registration is a far more costly affair.

### **Grounds For Trademark Opposition**

The opposition of Trademarks in Tanzania is provided for under Section 27 of the Trademarks and Services Marks Act of Tanzania as well as under Regulation 34 of the Trademarks and Service Marks Regulations of Tanzania. The Tanzania trademark law stipulates one can oppose a trademark application on the grounds that such an application does not satisfy the requirements of Part IV on registrability requirements. There are various reasons a trademark opposition may be opposed mentioned below:

- The trade or service marks is similar or identical to an earlier or existing registered trademark.
- The trade or service marks is devoid of distinctive character.
- The trade or service marks is descriptive.
- The trade or service mark registration application is made in bad faith.
- The trade or service mark is likely to deceive the public or cause confusion.
- The trade or service marks is contrary to the law or prevented by law.
- The trade or service marks which are identical with, or imitate the armorial bearings, flags and other emblems, initials, names, or abbreviations, or initials of name or official sign or hallmark of any state or of any organisation created by an International Convention, unless authorized by the competent authority of that state or international organisation



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- The trade or service marks are filed by the agent or the representative of a third party who is the proprietor of the trade or service mark in another country, without the authorization of such proprietor, unless the agent or representative justifies his action.
- The trade or service marks resemble, in such a way as to be to deceive or cause confusion, an unregistered trade or service mark used earlier in Tanzania by a third party in relation to the same goods or services or closely related goods or services, provided that, an application for the registration of the earlier used unregistered trade or service mark is filed at the same time as the notice of opposition;
- The trade or service marks the use of which would be contrary to law or morality or which would be likely to deceive or cause confusion as to the nature, geographical or other origins, manufacturing process, characteristics or suitability for their purpose, of the goods or services concerned

### **The Procedures**

#### **1. Filing of Notice of opposition**

Any person who intends to oppose the registration of a trademark has to file such opposition with the registrar of trademark (BRELA), the notice shall be in a prescribed form and shall include a statement of the grounds upon which the opponent objects to the registration. The purpose of the notice of opposition (also referred to as the opponent's pleadings) is to outline the grounds on which the opponent alleges the opposed trademark should not be registered. The Registrar shall send a copy of the notice to the applicant. The copy of such notice shall be delivered to the applicant who will be required to reply the same with a counter-statement within sixty (60) days.

#### **2. Counter-statement by the applicant**

Within sixty days from the receipt of such duplicate of notice of opposition, the applicant shall send to the Registrar a counter-statement on a prescribed Form and a duplicate, setting out the grounds on which he relies to support his application. If he does not do so, he shall be deemed to have abandoned his application. If the applicant sends such counter-statement as aforesaid, the Registrar shall furnish a copy thereof to the person giving notice of opposition

#### **3. Evidence in support of opposition**

Upon receipt of the counter-statement and duplicate the Registrar shall forthwith send the duplicate to the opponent and within sixty days from the receipt of the duplicate the opponent shall produce to the Registrar such evidence by way of statutory declaration, as he



may desire to adduce in support of his opposition and shall deliver to the applicant copies thereof.

#### **4. Evidence in support of the application**

If an opponent gives no evidence, he shall, unless the Registrar otherwise directs, be deemed to have abandoned his opposition. If he does give evidence, then, within sixty days from the receipt of the copies of declarations, the applicant shall leave with the Registrar such evidence by way of statutory declaration as he desires to adduce in support of his application and shall deliver the copies to the opponent.

#### **5. Evidence in reply by the opponent**

Within two months from the receipt of the copies of the applicant's declarations, the opponent may leave with the Registrar evidence by a statutory declaration in reply and shall deliver to the applicant copies. This evidence shall be confined to matters strictly in reply.

#### **6. Further evidence & Exhibits**

No further evidence shall be left on either side but, in any proceedings before the Registrar, he may at any time give leave to either the applicant or the opponent to produce any evidence upon such terms as to costs or otherwise as he may think fit. Where there are exhibits to declarations filed in opposition, copies or impressions of such exhibits shall be sent to the other party on his request and at his expense, or, if such copies or impressions cannot conveniently be furnished, the original shall be left with the Registrar in order that they may be open to inspection. The original exhibits shall be produced at the hearing unless the Registrar otherwise directs.

#### **7. Hearing of the opposition by the Registrar**

Upon completion of the evidence, the Registrar shall give thirty (30) days, notice to the parties of a date for the hearing of the case unless the parties consent to a shorter notice. Within fifteen (15) days from the receipt of the notice, any party who intends to appear shall so notify the Registrar in writing of his intention. A party who receives notice and who does not notify the Registrar in writing may be treated as not desiring to be heard and the Registrar may act accordingly. On hearing of the opposition, the registrar shall be impartial to the parties and he shall give the parties time to present their evidence and arguments, then at the end of the hearing, the registrar shall draw a decision/judgement as to whether the mark will be registered or not. The decision of the registrar is subject to appeal before the High Court by any party who is aggrieved by that decision.



## **8. Appeal to the High Court**

Appeal to the High Court Any party who is aggrieved by the decision of the registrar may appeal therefrom to the High Court within 60 days from the date of the decision of the Registrar. On appeal from a decision of the Registrar the court may, after hearing the Registrar permit the trade or service mark proposed to be registered to be modified in any manner not substantially effecting the identity thereof but in any such case the trade or service mark as so modified shall be advertised in the prescribed manner before being registered.

## **Time Limit for Trademark Opposition**

Once the trademark advertisement in the Trade Marks Journal, any person can oppose the trademark registration within two months (which may be extended by a upon filling a request for extension). Trademark opposition filings can only be done at the Trademark Registrar's office and cannot be taken to a Court.

## **Conclusion of the Trademark Opposition Process**

When the Registrar decides in favour of the applicant, the trademark will be registered and will issue the trademark registration certificate. When the Registrar decides in favour of the opposing party, then the trademark registration application will be rejected.

Find here a copy of the Trade and Service Marks Act of Tanzania >>>>>>>>>  
[TRADEMARK AND SERVICE MARKS ACT TANZANIA CAP 236](#)

Find here a copy of the Trade and Service Marks Regulations of  
Tanzania>>>>[TRADEMARKS AND SERVICE MARKS REGULATIONS TANZANIA GN 40](#)