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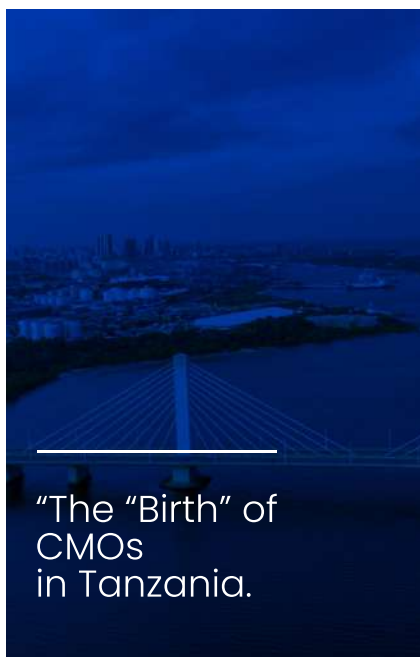
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Newsletter

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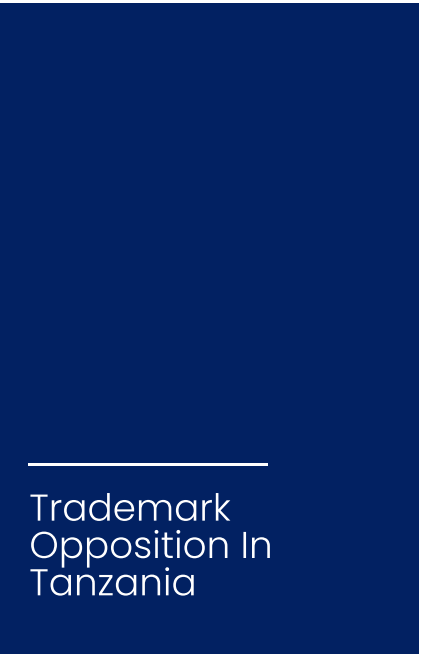
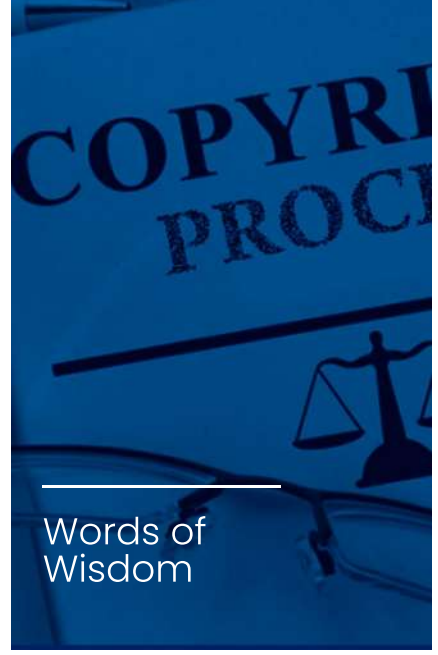
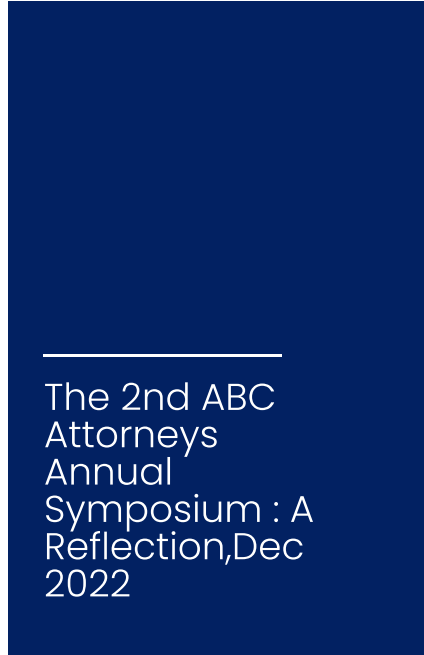
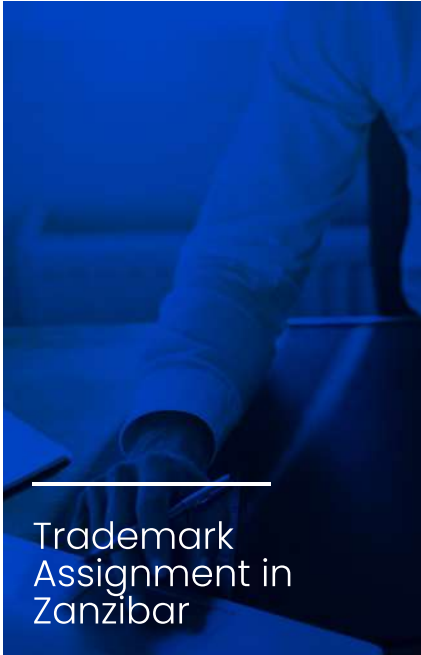
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INSIDE



More to come in

2023



Introduction

There is no limit to the power of the human intellect and the innovation is his own. This is the principle foundation of Intellectual Property Rights (IPR). IPR are the rights given to persons over creations of their mind, to protect and preserve their interests and prevent exploitation. In this era of rapid innovation, the field of IPR has experienced significant growth and shows no signs of slowing down. Creators are more aware of the value of their creations and are taking measures to protect it.

We are proud to present the inaugural ABC ATTORNEYS INTELLECTUAL PROPERTY & TECHNOLOGY NEWSLETTER. This newsletter aims to provide information and an update on developments in the world of copyright, patents, trademarks, industrial designs, technology and other Intellectual Property rights. The Newsletter contains a variety of interesting subjects from Tanzania Mainland, Zanzibar, East Africa, and globally.

Intellectual property is at the core of every successful business. It protects inventions, ideas or software and is therefore one of a company's most essential immaterial assets. The developments in this field are manifold and complex. Staying up to date on the latest developments, changes in law and plans for reforms, especially on a global scale can be difficult. This new publication by ABC Attorneys gives you the opportunity to stay close to hot topics and recent developments in Tanzania and in various jurisdictions worldwide.

It is our aim to enlighten you with the latest happenings in the field of IPR and technology Law. It provides an overview of global developments and also addresses several contemporary issues with respect to IPR.

We would like to express our gratitude to all the contributors and editors, who have dedicated their time and effort towards the successful completion of this newsletter.

We hope you enjoy reading this edition and we look forward to receiving your feedback. Enjoy!

From
ABC Attorneys IP&TECH DEPARTMENT



Law firm Profile Law

ABC Attorneys is a corporate and Commercial Law firm based in Dar es salaam Tanzania with offices in Dodoma, Arusha and Zanzibar. We are praised as one of the leading Intellectual Property and Technology law firms in Tanzania and Zanzibar.

We a member of TAGLAW, a global alliance of high quality, law firms with 150 member firms based in over 90 countries with 9500+ lawyers in 300 offices and AMANI IP a network of Premier African Intellectual Property law firms.

ABC Attorneys is committed to driving innovation and delivering value to our clients. We work closely with you to provide the most sound and reliable solutions to your problem. Our firm leverages its skilled workforce and technology to provide premium legal services in Corporate, Commercial , Energy, Mining, Intellectual Property and TMT laws in Tanzania.

Awards and Recognition

ABC Attorneys Recognized in the 2022 Edition of the WTR 1000

ABC Attorneys is pleased to announce that the firm's Trademark practices in Dar es Salaam along with One attorney have all been ranked as recommended Law firm in Tanzania the 2022 edition of the WTR 1000.

The 2022 edition of the WTR 1000 features more than 80 country and US state-specific chapters analyzing local trademark legal services markets and profiling the firms and individuals singled out as leaders in their respective fields.

Individual practitioners, law firms and trademark attorney practices qualify for inclusion in the WTR 1000 solely on receiving sufficient positive feedback from market sources. The extensive research process was conducted over a four-month period by a team of full-time analysts and involved over 1,500 face-to-face and telephone interviews with trademark specialists across the globe.

According to the review, "Since opening its doors in in 2012, commercial outfit ABC Attorneys has made intellectual property a central plank of its offering. Making full use of a proprietary web-based file management and communication program with broad application, it provides a timely and efficient service to clients with respect to trademark filings, portfolio management and litigation. As a member of the TAGLaw alliance, it supplies high-quality global support with the minimum of fuss; it is also engaged with AMANI IP, a network of IP and TMT firms dedicated to helping rights holders overcome IP and other challenges in Central and East Africa."

Our Managing Counsel Mr. Sunday Ndamugoba was also recognized as a recommended Attorney in Tanzania by this globally recognized trademark lawyers ranking authority.

"Sunday Godfrey Ndamugoba heads the IP department and is one of Tanzania's leading trademark and patent prosecution specialists; armed with contentious experience, too, he can smoothly solve any IP puzzle presented to him."

ABC Attorneys®

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RECOGNITION



WTR™

World Trademark Review

Recommended Law Firm Tanzania





Fintech & the Law in Tanzania.

Fintech is a term used to describe the technology that seeks to improve and automate the delivery and use of financial services. At its core, fintech is utilized to help companies, business owners and consumers better manage their financial operations, processes, and lives by utilizing specialized software and algorithms that are used on computers and, increasingly, smartphones. The word Fintech is a combination of two words ‘financial’ and ‘technology’.

Fintech as a thing emerged in the 21st Century. The term was initially applied to the technology employed at the back-end systems of established financial institutions. Since then, however, there has been a shift to more consumer-oriented services and therefore a more consumer-oriented definition. Fintech has expanded to include any technological innovation in – and automation of – the financial sector, including advances in financial literacy, advice, and education, as well as streamlining of wealth management, lending and borrowing, retail banking, fundraising, money transfers/payments, investment management and more. Fintech also includes the development and use of cryptocurrencies. That segment of fintech may see the most headlines, the big money still lies in the traditional global banking industry and its multi-trillion-dollar market capitalization.

Understanding Fintech Broadly, the term “financial technology” can apply to any innovation in how people transact business, from the invention of digital money to double-entry bookkeeping. Since the internet revolution and the mobile internet/smartphone revolution, however, financial technology has grown explosively, and fintech, which originally referred to computer technology applied to the back office of banks or trading firms, now describes a broad variety of technological interventions into personal and commercial finance. Fintech now describes a variety of financial activities, such as money transfers, depositing a check with your smartphone, bypassing a bank branch to apply for credit, raising money for a business startup, or managing your investments, generally without the assistance of a person. According to EY’s 2017 Fintech Adoption Index, one-third of consumers utilize at least two or more fintech services and those consumers are also increasingly aware of fintech as a part of their daily lives.

Fintech in Practice

As technology is integrated into financial services processes, regulatory problems for such companies have multiplied. In some instances, the problems are a function of technology. In others, they are a reflection of the tech industry’s impatience to disrupt finance. For example, automation of processes and digitization of data make fintech systems vulnerable to attacks from hackers.

Regulation of Fintech in Tanzania

The Bank of Tanzania is the regulator of the financial sector in Tanzania as the laws confirm under the Bank of Tanzania Act of 2006, the National System Payment Act of 2015, and the Banking and Institution Act of 2006 whereas it extends to fintech business. To be exact or specifically, the National System Payment Act of 2015 which stands as a department of The Bank of Tanzania and the National System Payment Act of 2015 deals with any fintech business and reviews new financial technology products to be launched in the market. Due to the compulsory listing requirements, some fintech businesses may also be regulated by the Capital Market and Securities Act of 1994 and will need to comply with the Dar es Salaam Stock Exchange Rules of 2016. As fintech business is more technological henceforth approval under the Electronic and Postal Communications Act of 2010 may be applicable only if fintech business aims to establish its own telecommunication infrastructure or sharing of infrastructure whereas license is issued by TRA. Under the laws mentioned above. Tanzania has in place the Cyber Crimes Act 2015 which applies to fintech business, whereas cybercrime was enacted to monitor, control, and reduce cybercrime in Tanzania especially crimes which were continuously done online, on social media, and mobile phones. A fintech business is required to comply with the laws under the Anti Money Laundering Act of 2006 whereas it is a primary statute on laundering money in Tanzania. The fintech companies would be required to maintain and establish records of all transactions between themselves and the customers. Henceforth whereby the law mentioned above is read together with other laws such as Anti Money Laundering Regulations 2012, Anti-Money Laundering (Cross Border Declaration and Bearer Negotiable Instruments 2016), The Economic and Organized Crime Control (Cap 200) and Prevention and Combating of Corruption Act of 2007. All rules and regulations that govern the financial and telecommunication sector would also apply to the fintech business. As a general requirement fintech businesses should comply with all laws applying to businesses not limited to the companies' regulations and the tax legislation.

ABC is proud to have assisted a number of Fintechs start ups in Tanzania from incorporation to TCRA and BOT licencing.

Registration of Trade & Service Marks for Business in Tanzania.

In Tanzania mainland, the main governing laws on Trademarks are the Trademark and Service Marks Act [CAP 326 R.E 2002] (the Trademarks Act); and the Trade and Service Marks Regulations, 2000 (the Trademarks Regulations). While the main legislation in Zanzibar are the Zanzibar Industrial Property Act, 2008; and the Industrial Property Regulations 2014.

A point to be noted is that it is mandatory for Trademark users or any person proposing to use a trade or service mark to register it. Eligible Trade or Service Mark for registration may be word(s); figure, picture, colour (s), including the shape of goods or packaging or any combination of the mentioned list. It is advised to conduct an online search to check for any similarities of existing Trademarks against the proposed names.

Applications for registration of trademarks are made through the Business Registration and Licensing Agency's. Applicants not residing in Tanzania must appoint a trademark agent residing and practicing in Tanzania. The Applicant has to complete an online application by providing information like; a Power of Attorney to appoint a trademark agent; name and address of the Owner; trade or business description of the Owner; mark or service name; mark translation (if any); colour description of a mark; if applicable priority document with verified English translation; the particular goods or services in respect of which registration of the trademark is applied; a declaration that the applicant or his proposed registered user is using or proposes to use the mark within Tanzania; mark sign type i.e. logo or name or both logo and name; representative's address of service; and Nice class as classified by the International Classification of Goods and Services. Once the online application is complete, the Applicant is required to upload and submit the application with supporting documents for evaluation.

Upon receipt of the online application, the Registrar of Trade and Service Marks (the Registrar) will examine the mark with other registered marks and pending applications to ascertain if the application has met the requirements set under the Trademarks Act. The Registrar may refuse to register a Trade or Service Mark application that contains any of the following: is identical, or resembling to an existing registered Mark, identical with or imitate the armorial bearing, flags and other emblems, names, abbreviations, initials, official sign, hallmark of any state or of any organization created by an international convention; contrary to the law or public morality; is a reproduction in whole or in part of well-known trademarks, business or company names from other countries; likely to deceive or cause confusion to the consumers or users; is not a visible sign; is graphically not representable; is a geographical name; and It lacks distinctive character.

Once it is found that a pending Trade Mark that is registered in respect of any goods or services is identical with another Trade Mark or is pending in the name of the same proprietor in respect of the same goods or services, the Registrar may at any time require that the Trade Mark be entered in the register as associated Trade Mark. Upon the examination and consideration of the application, the Registrar may accept the application and he will cause the Trade mark to be advertised in the Trade and Service Marks Journal (the Trademarks Journal) which is published every month. Any person may within sixty (60) days from the date of an advertisement in the Trademarks Journal of an application of a mark, give notice to the Registrar opposing the registration. The same case applies to Zanzibar. If the Registrar does not receive any objection on the advertised Mark within sixty (60) days of advertisement, he proceeds to issue the Certificate of Registration upon payment of registration fee. While making an application for a Trade or Service Mark registered outside of Tanzania, the Registrar may require proof of registration from the other country before accepting registration. The timeframe for the completion of the registration is 90 days.



Registration Process in Zanzibar

Zanzibar just like any other country in common law jurisdictions, has its own laws and procedures governing Trademark affairs as whole. In common law jurisdiction Procedures governing Trademarks are almost the same but not similar. Some of the procedures are commonly used and shared by all Intellectual Property stake holders despite of its minor differences in terms of procedures. In 2012, Zanzibar developed a new law to deal with IP matters, the law has necessitated various changes including the establishment of the Business Property Registration Agency (“the BPRA”) in 2012 by Act No. 13 of 2012. BPRA is responsible for handling of all IP matters in Zanzibar.

In handling IP matters in Zanzibar, we have highlighted some crucial aspects which are very essential for a Proprietor or an interested party to be acquainted with before or after has acquired a Trademark right in Zanzibar.

The procedure to file a trademark registration in Zanzibar requires the followings: The Power of Attorney to appoint trademark Agent (there are special forms of Power of Attorney that applies in Zanzibar. The Power of Attorney does not require notarization or legalization.

Applicant’s full name and address); Ten prints of the proposed trademark except for word marks in ordinary type, if applicable, you have to inform whether the trademark is to be filed in colour; Priority Document with verified English translation; If the proposed trademark is in a language other than English, the Trademark Office normally requires the applicant to meet application to be accompanied with verified English translation; description of the goods and services for which registration is to be registered; payment of filling fee.

Trademarks are classified according to the goods or services for which you propose to use

and register the mark. As explained above, Zanzibar applies International Classification of Goods and Services.



Protection of Trademark

Once an application for trademark has been presented for filing before the Registry accompanied by a prescribed official fee, may be registered if no any objection raised against the Application. If the Mark is registered, the Applicant will be having an exclusive right over the mark for a period of ten years successfully from the filing date of the application for registration.

Renewal of Trade mark

After a proprietor of a mark has enjoyed a ten years exclusive right over a registered trademark, is required by law either to renew or abandon the mark. The registration of a mark may, upon request, be renewed for consecutive periods of seven years, provided that the registered owner pays the prescribed renewal fee. A grace period of six months shall be allowed for the late payment of the renewal fee on payment of the prescribed surcharge, otherwise the registered.

Mark shall lapse, and there shall be no restoration of lapsed registered marks. Any application for renewal may be done through the following highlighted procedures. Renewal is done by Filling form no. 16 of the trademark forms; this form contains a request for renewal. The form must be accompanied by a proof of payment of renewal fees. Upon filling before the registry, must be entered in the Register. The registrar shall cause to publish the renewal in the official gazette. Thereafter, the registrar shall issue a certificate of renewal. The renewal certificate must show the date of renewal and date of Expiry.

However, the request for renewal may be presented at least six months before the date on which the renewal is due and up to the month after that date and shall be signed by the registered owner or his agent.

Record of change of name, address and assignment

Once a mark has been registered, at any time the proprietor or owner of the mark may apply for change of name, address or assignment through the procedures stated in the laws. Any change of name, date, address or assignment of the registration of a mark shall be in writing and shall be referred to the Registrar, at the request of any interested party, be recorded and published by the Registrar, such change shall have no effect against third parties until such recording is affected.

A change of name of the mark may be rejected by the Registrar if it is likely to deceive or cause confusion, particularly in regard to the nature, origin, manufacturing process, characteristics, or suitability for their purpose, of the goods or services in relation to which the mark is intended to be used or is being used.

Watch Services

Once the mark has been registered it is advised that search must be done throughout the continuing life of the mark in order to oversee if there is someone infringing or tempering with a mark registered. There are some Trademark which has regained a Goodwill of high market influences, some strangers normally temper with the Goodwill of that mark and trying to use them for their personal advantage.

These types of the marks if tempered may cause confusion to the people and loss of market to the proprietor. Enjoyment of trademark right goes hand in hand with market impact once it is not watched you might find strangers are trying to abuse your trademark right.

Removal of Registration

Any interested party may upon request apply to the Registrar to remove the mark from register upon establishing sufficient reasons. The grounds for removal may be founded among of the following grounds;

If the mark has not been used by the registered owner or a licensee during a continuous period of three years or longer.

If the mark contains or consists of a geographical indication with respect to goods not originating in the territory indicated. The removal of a mark from the register on the ground of non-use must be published in the official journal within sixty days from the date of removal.

General Remarks.

The proprietors of the mark in Zanzibar are advised to protect their mark pursuant to the procedures vested under the law. Once the mark has been registered it confers exclusive right to the proprietor that prohibit third parties from misuse.

“The “Birth” of CMOs in Tanzania.

On 30th June, 2022 the Government of the United Republic of Tanzania gazetted the Finance Act which gave birth to Collective Management Organizations (CMOs).

Pursuant to Section 4 of the Copyright and Neighbouring Rights Act, 1999 as amended by Section 23 of the Finance Act, 2022, CMOs are organizations or bodies exercising copyright or related rights on behalf of the owners of rights, whose main object is to negotiate for the collection and distribution of royalties and the granting of licenses in respect of copyright works or performer’s rights in return of an administrative fee. For CMOs to operate in Tanzania, they must be licenced by COSOTA.

Several functions are played by CMOs including; to promote and encourage creativity in the artistic, literary and scientific fields in Tanzania; to promote and carry out public awareness on copyright and neighbouring rights; to pay the royalties to its members who are the appropriate beneficiaries; to charge fees as approved by the COSOTA to the users of copyright and neighbouring rights; to enter into reciprocal agreements with foreign societies or other bodies of authors or neighbouring rights owners, in collaboration with the relevant authorities, in respect of their members’ works; to foster harmony and understanding between its members with the users of their works for the purpose of protecting their economic rights; to provide its members or other persons in need of it, with information on all matters relating to copyright and neighbouring rights and to give advice and keep its members informed about their rights and interests; to act as an agent for its members in relation to their copyright and neighbouring rights interests; and to do any act necessary in relation to the copyright and neighbouring rights and interests of its members.

However, there are several conditions for issuance of licences to CMOs. These are; the CMOs must be capable of promoting its members’ interests and of discharging its functions and objectives; it consists of at least thirty members; and the organisation is incorporated under the Companies Act.

Since CMOs are mandated to render decisions, once a person who is aggrieved by any decision or act of the collective management organisation may appeal to COSOTA. Further appeals are filled the Minister responsible for copyright and neighbouring rights.

Copyright Registration in Tanzania.

Pursuant to Section 4 of the Copyright and Neighbouring Rights Act, 1999 (the Copyright Act), copyright is the sole legal right to print, publish, perform, film or record a literary or artistic or musical work. Whereas, the authors of original literary and artistic works acquire copyright for their works, by the sole fact of the creation of such works.

Why registering your copyright?

Although copyright automatically accrues to the author of the original work, registration of the copyright can be of importance, when it comes to protection and enforcement of copyright. Tanzania has a copyright registration system, which is not mandatory in order to enjoy legal protection of rights, but is very useful in proving ownership if you ever need to enforce your Intellectual Property. By registering your Copyrights, it Simplifies inducement of evidence in Court and in Dispute Settlements. Further, it enables the author to claim and receive royalties in and out of Tanzania mainland.

Copyright Registration Procedure

The person who wishes to register his/her copyrights in Tanzania has to do it through Copyright Society of Tanzania (COSOTA). COSOTA is an organization established by the Copyright Act which is responsible for managing copyright matters in Tanzania. It has a several of functions among other being to maintain registers of works, productions and association of authors, performers, translators, producers of sound recordings, broadcasters and publishers.

Eligibility for copyright registration and protection in Tanzania

Generally, copyright protection in Tanzania is available to; Works of authors who are nationals of Tanzania, or have their habitual residence in Tanzania. Works first published in Tanzania, irrespective of the nationality or residence of their authors. Works first published in a foreign country of authors of foreign nationality and having their residence in a foreign country, provided that the country where the author has his habitual residence provides the same protection to the works first published in Tanzania.

Requirements for Filing application for copyright registration

For a copyright to be registered for protection, the applicant or his agent shall file an application for registration of copyright with COSOTA. The application for registration of copyright is made in a prescribed form accompanied with the following documents and information; Two copies of the copyrighted work; Two passport-size photos of the applicant; A copy of the applicant's passport, National Identity card or birth certificate; A copy of the passport, National Identity card or birth certificate of the applicant's next of kin; and, a copy of any agreement or other document evidencing other rights holders' contributions to and/or ownership of the copyrighted work. For the creator of any copyright idea under the group or company must show the relation in a written form between the declaration and the group/company.

Names of group members and representative if it is a group or band or choir.

For the creator of any copyright idea under the group or company must show the relation in a written declaration form between him and the group/company.

Examination of the application

On receiving the application for copyright registration, the Copyright Administrator conducts search on the registered works, and works pending for registration, with a view to ascertain there is dispute or existence of the same work in the register. After conducting the search, the Copyright Administrator may accept or reject the application. If the Copyright Administrator rejects the application, he will inform the applicant of his decision and his reasons thereto, and the applicant has to reply to such notice or apply for hearing to the refusal within one month to the objection by the Copyright Administrator.

If the Copyright Administrator accepts the application, he will issue the certificate of registration

Post-Registration Rights and Copyright Business.

After Registration of the author of the work will enjoy protection of his exclusive economic and moral rights, in relation but not limited to, reproduction of the work, distribution of the work, public exhibition of the work, translation of the work, public performance of the work, broadcasting of the work, importation of copies of the work, to claim authorship of his work, and to object to and to seek relief when his honour or reputation are about to be prejudiced by the third party.



Imposition of Copyright Levy In Tanzania

Tanzania is joining other jurisdictions in imposing this levy as the Copyright and Neighbouring Rights Act, 1999 was recently amended by the Finance Act, 2022. The Parliament of the United Republic of Tanzania recently concluded plans to impose a 1.5 percent levy on the values of radio/TV set enabling recording, analogue audio recorders, analogue video recorders, CD/DVD copier, digital jukebox and MP3 player manufactured in the country or imported. These are essentially devices that are likely to be used in infringing copyright.

Some countries other than Tanzania already have a system of private copying levy in place. In countries where private copying levies exist, some question whether such a system is effective in achieving its purpose. More importantly, the question arises whether the imposition of such a levy is not a curtailment of the access granted to members of the public to copyright work through the popular fair dealing exception to copyright protection.

Basically, copyright owners have the exclusive right to control the reproduction of their works. Since the advent of recording and copying technology, reproducing copyright works has become easier. The reality is that private copying/reproduction is damaging to the right of owners and the entire copyright industry. One of the ways this situation is addressed is the imposition of copyright/private copying levies in some jurisdictions. Different rationales have been advanced for the imposition of this levy such as harm/compensation rationale and the statutory license rationale.

Section 48A of the Copyright and Neighbouring Rights Act, 1999 (the Copyright Act) has added by the Finance Act, 2022, and provides that “there is imposed a copyright levy at a rate of 1.5 percent to be charged on the value of radio/TV set enabling recording, analogue audio recorders, analogue video recorders, CD/DVD copier, digital jukebox and MP3 player”. The Minister is to make regulations prescribing the manner and modality under which the levy is to be collected and accounted for upon consultation with the Minister responsible for finance. The levy is to be paid in the case of materials imported into Tanzania, at the point of entry, by the importer. In practice, whether importers would be able to pass across the burden of this payment to the final consumers would depend on the competition in the market. Hence, where the importer would be contesting for selling at a cheaper price to have an edge in the market, he may not be able to pass across the cost of the levy to the consumers.

Justifications for a Levy

Certain rationales can be anticipated for the imposition of copyright levy. On the day the levy was proposed, Law makers argued that with increased technological developments, private copying has become easier. This would lead to reduction in the sale of copyright works especially literary and musical works as well as cinematograph films. If this trend is allowed to continue, these authors may run out of business or would be impoverished thus lacking the incentive to continue making creative works. Consequently, this will adversely affect production of cultural goods or creativity in the society. In order to avoid such a situation, copyright levies should be collected and distributed to them as a form of compensation for loss in sales and an incentive for future production of creative and cultural goods. Another reason can be that it is difficult or impracticable for a copyright owner to enforce his or her right in the domestic sphere. Ideally, since copyright is a private right, it is the duty of the right owners to identify cases of private copying and prosecute same, in order to enforce their rights or get remunerated for it. In practice, private copying is difficult to identify, prosecute and license. Also, an attempt to enforce the rights of copyright owners by preventing private copying in the domestic sphere, especially with regards to the analogue environment, is likely to interfere with the privacy of consumers. Since this area is tedious to regulate, paying levies to the benefit of copyright owners is a way of enforcing the rights of copyright owners. With increased development in devices and equipment that facilitate private copying, a new market has been created for the exploitation of copyright and neighbouring rights. Those who benefit financially from this market are no longer necessarily the right owners themselves. Rather, it is the manufacturers of recording devices and storage devices who are reaping the financial benefits. Equipment that allow private copying take away the remuneration of copyright owners despite the fact that their works are what make these devices sell in the first place. In view of this, another reason given for the imposition of copyright levy is to enable copyright owners to have their own share of this new market that is created. Similarly, it is argued that digital consumer electronics on which copyright protected works can be stored, uploaded or played has increased the value consumers place on copyright works. This is the case even if such copyright works are already in the possession of the consumer. This increased social value of copyright protected works would ordinarily, be appropriated by only the consumers, while the industry producing these electronics and the creators of these works would remain uncompensated. This unfairness is corrected by the imposition of a levy, which allows creators (copyright owners) to also benefit from the increased value. The imposition of copyright levies has also been argued to be a way to reduce transaction and administration costs of using copyright works. Copyright transaction costs may include (a) identifying and locating the owner, (b) negotiating a price (this includes information and time costs), (c) monitoring and enforcement costs. If a right owner were to enforce his rights against all private individuals, this would indeed be costly. According to the Grower's Review of Intellectual Property, 'one of the purposes of exceptions to copyright is to reduce burdensome transaction costs associated with having to negotiate licenses. Payment of copyright levies help to reduce this cost and make it easier to enforce copyright.'

Trademark Assignment in Zanzibar

In Zanzibar, registered trademark owners can assign their trademark rights either in their entirety, with respect to only certain goods or services.

All assignments must be recorded with the Trademark Office, Trademark owners grant licenses in Tanzania as well, with licenses similarly being subject to mandatory recording. We represent existing trademark registrants as well as assignees and licensees (called “registered users”) in all aspects of trademark licensing and transfers.

Licenses allowed in Tanzania in form of registered user. A person other than the proprietor of a registered trade or service mark may be registered as a registered user in respect of all or any of the goods or services for which it is registered.

The recordal of registered user is mandatory. The use of a trade or service mark by its registered user in relation to goods or services with which he is connected in the course of trade or business and in respect of which the trade or services marked remains registered in compliance with any conditions or restrictions is permitted use.

A license contract is invalid in the absence stipulations between the registered proprietor of the trade or service mark and the proposed registered user ensuring effective control by the registered proprietor of the quality of the goods or services of the proposed registered user. In the absence of any provision to the contrary in the license contract, the grant of a license does not prevent the registered proprietor from granting further licences to third parties or from using the trade or service mark himself. The grant of an exclusive licence will prevent the registered proprietor from granting further licences to third parties and from using the trade or service mark himself. In the absence of any provision to the contrary in the licence contract, the registered user will be entitled to use the trade or service mark during the whole duration of registration, including renewals, in the entire country, and in respect of all the goods or services for which the trade or service mark is registered, subject to any conditions or limitations entered in the register.

It is possible to make a license that is limited to a certain part of the Tanzanian territory. A licence cannot be assigned to third parties and the registered user is not allowed to grant sub-licences.

Assignment of a trademark is possible under Tanzanian and Zanzibar trademark legislation. A mark may be assigned in whole or in part (i.e., for some of the goods or services for which it is registered). Recordal of an assignment is mandatory. A person entitled to a mark through assignment or transmission must make application to the Trademark Office in the prescribed manner to record his title. Requirements for the recordal of an assignment and transmission are: assignment document (simple copy is sufficient) or a confirmatory deed of assignment, signed by both the assignor and the assignee; power of attorney; and payment of official fee. If the application is based on a priority claim, evidence of assignment of a priority claim is required.

On receipt of application, the Trademark Office will cause the particulars of the assignment or transmission to be entered in the register and where the application is in respect of a pending trade or service mark, the particulars of the assignment or transmission will be provisionally recorded and, upon registration of the trade or service mark, will be entered in the register. Assignments and transmission of pending trade or service marks or of registered trade or service marks have no effect against third parties until their particulars are entered in the register.

An assignment or transmission will, however, be invalid if the assignment or transmission is likely to deceive or cause confusion, particularly in regard to the nature, origin, manufacturing process, characteristics or suitability for their purpose, of the goods or services in relation to which the trade or service mark is intended to be used or is being used.



Trademark Opposition In Tanzania

After lodging a trademark registration application with BRELA, the Registrar will examine it and if he accepts the mark, the mark will proceed to advertisement in the Government Gazette, namely Intellectual Property Journal, released monthly by the registry.

During the advertisement the public is made aware of the applications for trademark registration, and invited to lodge with the registrar, notice of trademark opposition, if such mark has not qualified to be registered, it resembles another mark already registered or it resemble the mark that has not been registered but acquired an extensive reputation through usage.

Grounds to support notice of trademark opposition

Any person may, within sixty days (60) from the date of advertisement of trademark registration application, give notice of trademark opposition in a prescribed form, to the Registrar regarding any trademark registration application on the following grounds;

That such application does not satisfy the requirements of the law to be registered as the trade or services mark in Tanzania.

the trade or service mark resembles, in such a way as to be likely to deceive or cause confusion, with an unregistered trade or service mark used earlier in Tanzania by a third party.

The trade or service mark resembles, with a business or company name already used in Tanzania by a third party; and

The trade or service mark is filed by the agent of a third party who is the proprietor of the trade or service mark in another country, without the authorization of such proprietor.

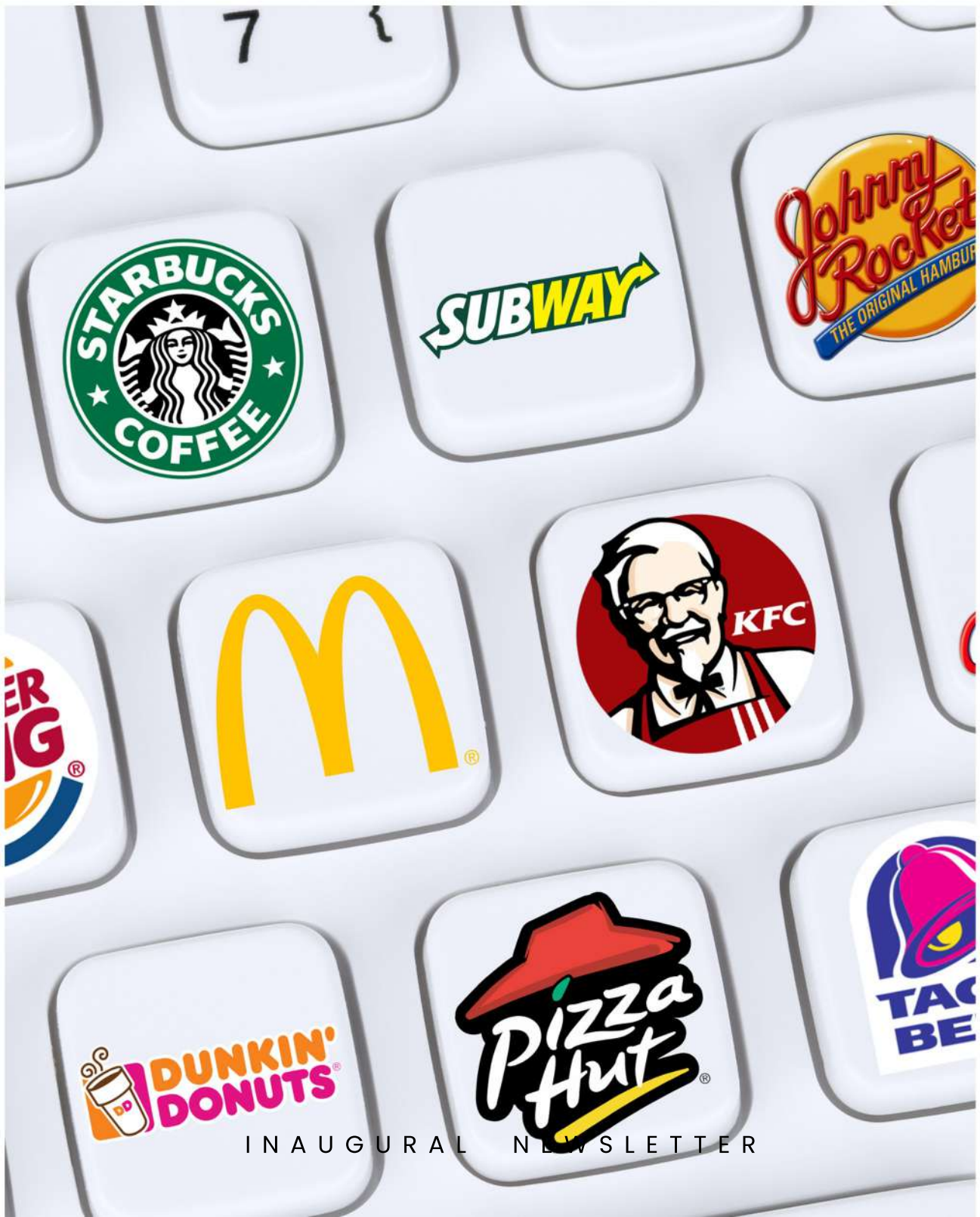
Trade or service marks the use of which would be contrary to law or morality.

Trade or service marks consist solely of the shape, configuration or colour of the goods, or the containers thereof;

Trade or service marks are identical with, or imitate the armorial bearings, flags or official sign or hallmark of any state or of any organization created by an International Convention, and

Trade or service marks constitute reproductions in whole or in part, imitations, translations or transcriptions, of trade or service marks and business or company names which are well known in the country and belong to third parties.

The 60 days requirement to file notice of trademark opposition above, can be extended by the Registrar upon the application by the opponent, generally the Registrar extend the same to the maximum of 60 more days from the date of application for extension of time to file trademark opposition. The registrar will then notify the applicant of such extension of time to file trademark opposition.



INAUGURAL NEWSLETTER

Procedures on Trademark Opposition

If trademark registration application is opposed on the ground that the mark resembles marks already on the register, the numbers of such marks and the numbers of the Journals in which they have been advertised shall be set out. A duplicate that the Registrar shall forthwith send to the applicant and shall accompany the notice of opposition.

Filing of Notice of Trademark opposition

Any person who intend to oppose registration of trademark has to file such trademark 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 trademark 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 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.

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. The applicant shall also set out what facts if any, alleged in the notice of opposition he admits.

Evidence in support of trademark 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.

Evidence in support of 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.

Evidence in reply by opponent

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

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 a trademark 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.

Hearing of the opposition of trademark by the Registrar

Upon completion of the evidence, the Registrar shall give thirty (30) days, notice to the parties of a date for 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 as aforesaid, may be treated as not desiring to be heard and the Registrar may act accordingly.

On hearing of the opposition of trademark, the registrar shall be impartial to the parties and he shall give the parties' time to present their evidences 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 part who is aggrieved by that decision.

Appeal & Reference of the Matter 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. Any such appeal shall be preferred by way of memorandum and shall be served to the registrar.

On appeal, 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.

Reference of the matter to the High Court

If the Registrar fails to notify the parties of a date for hearing within three months of the completion of the evidence or fails to issue his decision within three months after the conclusion of the hearing, the opponent or the applicant may, after having given the Registrar one month written notice, elect to refer the matter to the court for hearing and determination. The Registrar shall then transmit all relevant documents to the court for determination and settlement of the matter.

Registration of Trademark

Where the application for registration of trademark, has been opposed and the opposition has been decided in favour of the applicant, the Registrar shall, upon application and payment of required fee by the applicant, register the trade or service mark, and issue the certificate of registration to the applicant.

The First ABC Attorneys Annual Symposium : A Reflection, Dec 2021

The theme for the 2021 Symposium was: Women in Technology, Innovation and Intellectual Property during the 4th Industrial Revolution.

The 4th Industrial Revolution was first coined by the renowned economist Klaus Schwab at the World Economic Forum's annual meeting in Davos in 2016. The "4th Industrial Revolution" refers to those technologies that are erasing the distinctions between digital, physical and biological environments. Such technologies include, but are not limited to, artificial intelligence, the internet of things, nanotechnology, biotech, quantum computing, and autonomous vehicles.

These emerging technologies are not only introducing new business models and disrupting the old ways of doing things, they are also changing our everyday lives. One only needs to walk through a facial scanner at an airport or give a voice command to their smartphone and they are interacting with the technologies and innovations of the 4th Industrial Revolution. Whilst the 4th Industrial Revolution is the latest in a series of industrial revolutions spanning several centuries, the speed of this revolution marks the "4IR" as distinct. Indeed, many of these technologies are growing at an exponential rate, with the speed of change itself accelerating. With these emerging technologies emerging at an increasingly rapid pace, it is vital that parliamentarians and legislatures have an awareness and appropriate appreciation of these changes, regardless of the prevalence of these technologies in their respective jurisdiction. This Conference will aim to provide some of this awareness and awaken curiosity amongst the Tanzania population to further explore these technologies.

Few will contest that the fourth industrial revolution is well and truly in full swing across the globe. The revolution, known as industry 4.0, we are witnessing today is not merely an extension or continuation of the prior revolution. Instead, industry 4.0 is witnessing new inventions and breakthroughs in the fields of autonomous transport, nanotechnology, the internet of things, smart devices, artificial intelligence, 3D printing, robotics, quantum computing, biotechnology, to name a few. The first, mechanical, revolution witnessed the invention of locomotives and the gradual rise of factories. The second, electrical revolution, introduced electricity. The third revolution ushered in digital technologies (telecommunications, computers and finally the internet).



All three revolutions have led to human progress; and particularly the development of sophisticated legal intellectual property (IP) protection and exploitation regimes. At an international level, IP legal development culminated with the coming into force of the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) on 1 January 1995. TRIPS required member countries of the World Trade Organisation to enact laws, which are in line with international standards on the protection and enforcement of IP rights. On the digital electronics front for instance, TRIPS paved the way for the universal recognition of integrated circuit layout designs among WTO member countries. Overall and in line with the digital revolution's changes, TRIPS instilled a common goal among WTO members to actively promote technological innovation and the transfer and dissemination of technology. However, all these developments arguably pale in comparison to the disruption that industry 4.0 is causing. Compared with its predecessors, industry 4.0, is surpassing expectations and is rapidly changing the foundations of several disciplines, including intellectual property (IP).

The Objective of the conference was to achieve the following: sensitizing policy makers, creators and entrepreneurs about intellectual property right; informing the legal regime and policy on relation between intellectual property, and the 4IR through interaction with both the public and private sector; promoting the commercialization of intellectual property; setting intellectual property as the driver for innovation in the 4IR; and discussing aspects of the 4IR such as drone technology, big data, Internet of things and Artificial Intelligence.

The symposium had panels of speakers, sessions, presentations and speeches by leading leaders and players in the innovation Sector in Tanzania, academics, regulators and policy makers/business actors, opinion leaders and development partner organizations; comparatively applying key 4IR characteristics in emerging and existing technologies in Tanzania to the existing law in an effort to adopt better practices.

The plenary sessions allowed different makers and creators, the government, academics, and other relevant sectors to discuss key issues, giving informed opinions on the distinguishing characteristics of the 4IR, the justifications and processes of enhancing innovation for social economic transformation.

ABC ATTORNEYS hosted an exhibition of makers and creators in arts, metal works and fabrications, music, and photography. The exhibition provided an opportunity for them to market their products and create links for funding opportunities.

Speeches and presentations on in-depth analyses into what the 4IR is, its distinctiveness from other revolutions, its application to existing and emerging technologies in different sectors like arts, metal works and fabrications, music, film, photography, fashion, and electronics, among others.

The Symposium was live streamed through all the digital platforms by the help of Wanene Entertainment and a call Centre was established where participants may dial in and contribute or ask questions.

The symposium was hosted physically on 3rd December 2021 at Golden Tulip Hotel, Dar es salaam, Tanzania with strict observance of Covid-19 Standard operating procedures. The event ended with a competition showcasing selected makers, creatives and entrepreneurs who received special recognition from the panel of experts.

The 2nd ABC Attorneys Annual Symposium : A Reflection, Dec 2022

We are very excited to bring to you this years Annual Symposium. The theme this year is

Theme:

Achieving Agenda 2063: The Africa We Want.

“The Future of Fintech and other Digital Financial Services: Regulatory Compliance, Digital Transformation, Intellectual Property and AfCFTA opportunities for the Youth and Women in the Digital Economy of Tanzania.”

Agenda 2063 :

AGENDA 2063 is Africa’s blueprint and master plan for transforming Africa into the global powerhouse of the future. It is the continent’s strategic framework that aims to deliver on its goal for inclusive and sustainable development and is a concrete manifestation of the pan-African drive for unity, self-determination, freedom, progress and collective prosperity pursued under Pan-Africanism and African Renaissance. The genesis of Agenda 2063 was the realisation by African leaders that there was a need to refocus and reprioritise Africa’s agenda from the struggle against apartheid and the attainment of political independence for the continent which had been the focus of The Organisation of African Unity (OAU), the precursor of the African Union; and instead to prioritise inclusive social and economic development, continental and regional integration, democratic governance and peace and security amongst other issues aimed at repositioning Africa to becoming a dominant player in the global arena.

As an affirmation of their commitment to support Africa’s new path for attaining inclusive and sustainable economic growth and development African heads of state and government signed the 50th Anniversary Solemn Declaration during the Golden Jubilee celebrations of the formation of the OAU /AU in May 2013. The declaration marked the re-dedication of Africa towards the attainment of the Pan African Vision of An integrated, prosperous and peaceful Africa, driven by its own citizens, representing a dynamic force in the international arena and Agenda 2063 is the concrete manifestation of how the continent intends to achieve this vision within a 50 year period from 2013 to 2063.



The need to envision a long-term 50 year development trajectory for Africa is important as Africa needs to revise and adapt its development agenda due to ongoing structural transformations; increased peace and reduction in the number of conflicts; renewed economic growth and social progress; the need for people centered development, gender equality and youth empowerment; changing global contexts such as increased globalization and the ICT revolution; the increased unity of Africa which makes it a global power to be reckoned with and capable of rallying support around its own common agenda; and emerging development and investment opportunities in areas such as agri-business, infrastructure development, health and education as well as the value addition in African commodities.

The AfCFTA (The African Continental Free Trade Area (AfCFTA):

The AfCFTA is one of the flagship projects of Agenda 2063: The Africa We Want. It is a high ambition trade agreement, with a comprehensive scope that includes critical areas of Africa's economy, such as digital trade and investment protection, amongst other areas. By eliminating barriers to trade in Africa, the objective of the AfCFTA is to significantly boost intra-Africa trade, particularly trade in value-added production and trade across all sectors of Africa's economy.

So, what is the digital economy?

The digital economy is the economic activity that results from billions of everyday online connections among people, businesses, devices, data, and processes. It is one collective term for all economic transactions that occur on the internet. The backbone of the digital economy is hyperconnectivity which means growing interconnectedness of people, organisations, and machines that results from the Internet, mobile technology and the internet of things (IoT). The digital economy is taking shape and undermining conventional notions about how businesses are structured; how firms interact; and how consumers obtain services, information, and goods.

Fintech:

According to UNCDF Tanzania, THE FINTECH START-UP LANDSCAPE IN TANZANIA REPORT OF 2021, a fintech start-up is defined as a new entrant to the financial services industry that uses technology to enhance or automate financial services and processes. The report further identified further at page 9 that , "Fintech start-ups in the early stages provided some insights into the reasons why only a few fintech start-ups in Tanzania seem to make it to the growth stage. These include difficulties navigating the regulatory environment and establishing partnerships with banks, mobile network operators and other service providers", the more reason to have this year's symposium.

Fintech start-up distribution by funding:

Digital trade is rapidly growing, and Fintech services have become a powerful lever for growth and financial inclusion by providing large numbers of services to people excluded from basic financial services.

Of the 19 Fintech companies headquartered in Tanzania, 13 disclosed their total funding information or have it publicly available. Of those, only one (Jamii Insurance) has raised between US\$1 million and US\$10 million. Two have raised between US\$100,000 and US\$500,000, and the remaining 10 have raised less than US\$99,000. Only 8 of the 14 fintech start-ups headquartered outside Tanzania disclosed their total funding. Of those, two have total funding below US\$99,000, two have total funding between US\$1 million and US\$20 million, one has funding between US\$21 million and US\$100 million, and three have raised over US\$100 million. Two of the three companies that have raised over US\$100 million are pay-as-you-go lending/financing start-ups with operations outside Tanzania as well.

The Event:

The ABC Attorneys Annual Symposium is the premier gathering of regulators, lawyers, innovation ecosystem builders, investors, corporates and government representatives to engage, collaborate and share knowledge around new technologies and practices that support better regulations. This year, the Symposium aims to bring together the brightest and most innovative minds in financial technology.

The symposium center around women and youth with startups leading in Fintech, Mobile Payments, and Digital Technology industries for two days of immersive learning and networking. It is the ultimate event for the next generation of lenders, loan providers, fintech, credit and capital allocators who are powering the future of lending.

It is where the payments, fintech, and financial Services ecosystems unite. It's a large gathering that will bring together hundreds of attendees to network and learn from hundreds of well-known speakers.

This year's ABC Annual Symposium goal is to build the discussion around the future of technology in financial services in Tanzania and discuss on the laws so as to bring about much needed regulatory and policy changes. The event is centered around the law and the trends in the development of technology in the financial, banking and insurance sectors and the who, how and what drives the industries in the economy growth of Tanzania and the region. The Symposium broader objective is to enhance the quality of and strengthen the digital ecosystem.

We believe that the Symposium will bring discussions that will ultimately results in policy and law change to accommodate the Fintech space and bring about the achievement of Agenda 2063. The achievement of the goals will be a great elevation for the youth and women especially on the fintech and Digital Finance Services space.

Key areas focused:

- Anti-Money Laundering
- Artificial Intelligence
- Blockchain & Metaverse
- Customer Experience
- Data Protection & Privacy
- Digital Banking
- Digital Transformation
- Fintech, Insuretech, Agritech & Others
- Funding
- Payment Gateways
- Regulatory Changes
- Trade

The ten principles encourage stakeholders to:

- 1** think broadly about the financial ecosystem;
- 2** start with the consumer in mind;
- 3** promote safe financial inclusion and financial health;
- 4** recognize and overcome potential technological bias;
- 5** maximize transparency;
- 6** strive for interoperability and harmonize technical standards;
- 7** build in cybersecurity, data security, and privacy protections from the start;
- 8** increase efficiency and effectiveness in financial infrastructure;
- 9** protect financial stability; and
- 10** continue and strengthen cross-sector engagement

Why you should attend:

If the thought of joining 100+ other fintech enthusiasts as they learn from highly sought-after speakers from well-known companies on topics like funding startups, open banking, money transfer, NFTs, blockchain, cryptocurrency, data protection, privacy, Anti money Laundering, Digital Human rights, Law and more, sounds like fun, then ABC 2nd Annual Symposium is the perfect event for you.

You will be able to:

- Forge Relationships Between FinTech Founders & Bank Innovators
- Maximize Opportunities for Partnering
- Engage Global Regulators in Person
- Highlight Your Firm's Thought Leadership

Hear from those forging new trails in payments, blockchain, lending, wealth, insurtech, real estate, and more. In addition to attracting hundreds of entrepreneurs, this ABC Annual Symposium on FinTech also plays host to the investors and service providers that help accelerate startups.

Objectives.

The Objective of this conference is to achieve the following.

- 1** Sensitizing policy makers, creators and entrepreneurs about Fintech eco system linking it with the intellectual property Laws, Privacy Laws, Technology law, their impacts to the Agenda 2063 and opportunities available for Youths and Women involved in Startups.
- 2** Influencing the Regulatory and policy changes in the Financial Technology Space and the 4th Industrial Revolution(4IR) through interaction with both the public and private sector.
- 3** Promoting Women and Youth on the importance the commercialization of intellectual property
- 4** Setting intellectual property as the driver for innovation in the 4th Industrial Revolution.
- 5** Discussing aspects of Women, Youth Startups and the 4IR involvement in drone technology, big data, Internet of things and Artificial Intelligence.

Format of the symposium

The symposium shall have panels of speakers, sessions, presentations and speeches by leading leaders and players in the innovation Sector in Tanzania, academics, regulators and policy makers/business actors, opinion leaders and development partner organizations; comparatively applying key 4th Industrial Revolution characteristics in emerging and existing technologies in Tanzania to the existing law in an effort to adopt better practices for FinTechs.

The plenary sessions will allow different makers and creators, the government, startups, academics, and other relevant sectors to discuss key issues, giving informed opinions on the distinguishing characteristics of the 4th Industrial Revolution, the justifications and processes of enhancing innovation for social economic transformation.

The Symposium convenor shall host an exhibition of inventors, startups, banks, telcos, creators in arts, metal works and fabrications, music, and photography. The exhibition shall provide an opportunity for them to market their products and create links for funding opportunities.

Speeches and presentations shall be in- depth analyses into what the Fintech and 4IR is, its distinctiveness from other revolutions, its application to existing and emerging technologies in different sectors like arts, metal works and fabrications, music, film, photography, fashion, and electronics, among others.

The Symposium will be streamed live though all the digital platforms and we shall establish a call Centre where participants may dial in and contribute / or ask questions.

The symposium will also be hosted physically, Tanzania with strict observance of Covid-19 Standard operating procedures.

With an expansive line-up of over 50 inspiring speakers from East Africa, the two-day event will provide the perfect platform for discussion with the power to influence change. The Symposium comes at such a pivotal time when the world is slowly recovering from the impact of the pandemic which significantly sped up digitization, making it a priority for regulators and operators to rethink and adapt to new strategies.

We shall also have break out session of trainings for start ups and artist which we believe is key for them in understanding from how to run a business to the laws that impacts their ventures and how to comply so at to contribute to the country development goals.

The event will end showcasing selected, Female tech startups, innovators creatives and entrepreneurs who will receive special recognition from our panel of experts for their outstanding achievement.

News & Insight - Tanzania.

The Report on best way of managing copyrights in Tanzania

A Committee headed by Mr. Victor Tesha released a report on August 12th, 2022. This committee, which was formed by Minister of Culture, Arts, and Sports Hon. Mohamed Mchengewa, was tasked with coordinating the most effective copyright management strategy in Tanzania.



A number of matters were discussed, including but not limited to the commercialization of artistic works, recommendations for appropriate procedures for collecting and distributing royalties, and advice on how to most effectively stop piracy in Tanzania.

The Report held the opinion that issues pertaining to copyright management are multifaceted, involve numerous governmental institutions, and occasionally entail competing interests. The Committee suggested, in short, that a Ministry Coordinating Committee be established to handle copyright concerns including the COSOTA, BASATA, the Film Board, TRA, TCRA, BRELA, TCU, and TAMISEMI. These organizations control who creates and who purchases works of art.

The Committee also recommended adding a requirement for the applicant to submit a COSOTA recognition certificate when applying for permits to institutions that use works of art, such as radio, television, bars, and pubs. In case institutions refuse to cooperate in submitting royalties owing to the use of copyright, this may serve to force them.

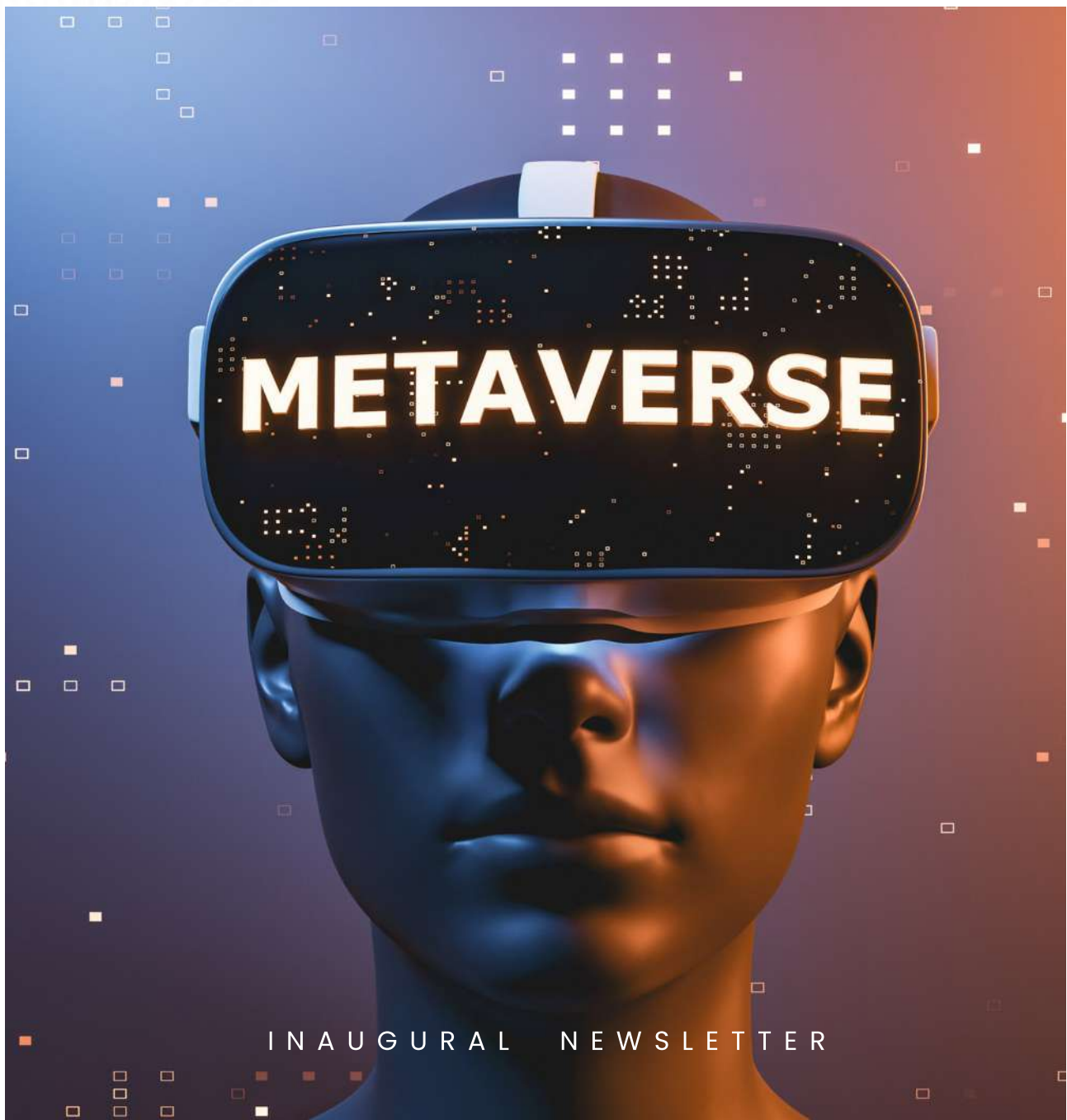


News & Insight - Global.

Trademarks in the Metaverse

What exactly is a metaverse? Simply said, it is a virtual environment where users can engage in a variety of interactions and connections with one another while still lounging on their couches, including gaming, teamwork, shopping, and exploration. In gaming platforms, some of this functionality is already present

What is envisioned is nothing less than a technologically advanced world of fantasy where customers can live digitally. For instance, customers can purchase virtual goods, online replicas of actual goods, with which to adorn their avatars, go to sporting and music events as virtual VIPs, purchase price and exclusive works of art, operate virtual cars or boats, and more..



The metaverse is always growing. Many of these new virtual experiences or products will have the additional appeal of being an NFT, a one-of-a-kind digital creation. As users of this new virtual and augmented reality spend actual money, albeit in the form of digital currencies, to participate, a lot of not entirely fictional value will be created.

The metaverse is constantly evolving, but it has established itself in a number of fields. Gamers can buy virtual in-game currency in the form of digital items called "skins" to make purchases in-game, making the gaming industry a pioneer in the development of new spaces.

Sports leagues are getting involved, offering possibilities to buy NFT trading cards or go to the newest fantasy league events. Participants can take part in a virtual musical performance, such as a Travis Scott concert. This is only the start. It is anticipated that the metaverse will grow and develop into a richer environment for its user base.

The Mark Zuckerberg-led Corporation Meta, which owns Facebook, is actively developing new products in an effort to seize the Metaverse's wealth for itself. However, other tech giants like Microsoft and gaming giants Nvidia and Roblox are also keen to claim as much metaverse real estate as they can.

There will be many legal difficulties in the metaverse, just like there are in the real world. Issues relating to copyright, patents, trademarks, antitrust or anti-competition, privacy and data collecting, free speech and defamation, and intellectual property. Protecting their brands in the metaverse will be crucial for brand owners, and preparing to participate in the new Meta sandbox will necessitate a legal plan.

As they want to expand in the metaverse, brand owners should think about how to build their virtual marketplace with suitable trademark registrations, a strong policing strategy, and acceptable licenses and terms of use.

Trademark applications need to be submitted right away if your business intends to sell branded virtual goods and services in the metaverse. But how do you apply to get your digital shoe brand protected? A digital bag? What terms should be used to describe products and services, and what categories are suitable?

Broad filing processes have already been put in place by several businesses. Several of them are well-known shoe manufacturers like Converse and Nike, both of which have submitted a number of applications to the USPTO. Additionally, it should come as no surprise that businesses in the fashion, cosmetics, sports, and entertainment sectors are submitting applications for the use of their marks in connection with online products. Although these applications have not yet been reviewed, they provide a possible road map for registering trademarks for virtual commodities.

It appears that businesses are requesting protection in relation to the following classes of goods: computer programs that can be downloaded (class 9); retail store services that offer virtual goods (class 35); entertainment services (class 35); non-downloadable virtual goods and NFTs available online (class 42); and financial services, including digital tokens (class 36). The descriptions of goods and services, as well as classification concerns, will probably become more standardized as these applications are assessed by multiple trademark authorities, and those rules will benefit subsequent applicants.

Protecting their brands in the metaverse will be crucial for brand owners, and preparing to participate in the new meta sandbox will necessitate a legal plan.

Did you know about MEMES?

A meme is a picture or animation from a movie or show etc. with text superimposed with a humorous undertone. Meme culture has taken over the internet and is an essential part of the social media users' day.

It is also a major source for the dissemination of information. Even serious political events are not safe from becoming a meme. Memes are consumed and shared on platforms within an instant and in mass volume. Now the question arises as to who owns the right over the meme, whether the person who created the meme or the person who has the right over the image. A meme may find its place as 'artistic work' as illustrated in the Copyright and Neighbouring Rights Act, 1999 (the Copyright Act) to include drawing, paintings, sculptures, engraving, paintings and works of architecture, and tapestry.

In order to use an image as a meme, the users must establish that the image is being used for 'fair use'. For a meme to be considered fair use, it has to fulfil two conditions: users must not be competing with the copyright holder i.e.; the meme creator should not be monetizing from the meme. And secondly, it does not adversely affect the original copyright holder. Getty Images, the popular USA-based agency that provides images and illustrations sent letters to individuals demanding license fees for using image of the "Awkward Penguin", a photograph by National Geographic photographer George Moberly. (Aarish Mudassir, Alliance School of Law Alliance University, Bengaluru).

While sharing of memes on personal social media accounts for hilarity reason may not lead to legal action, use for these images for commercial purposes will be considered a copyright infringement. The "Grumpy Cat" blew up over the internet to such proportions that it led to the rise of a whole brand around it selling t-shirts, posters, mugs, etc., with the image of the said grumpy cat. Though in all likelihood the chances of legal actions are generally low, the liability still remains on the meme creator. As the work is derivative the creators of meme content should be given rights for their creative and artistic expression. This uncertainty in the adjudication of memes needs to be regulated by copyright law; else we may see instances where the content creators will have to seek remedy from the courts.

Quick Facts.



Boxing and wrestling announcer Michael Buffer knew he had a good idea on his hands when he came up with the phrase "Let's get ready to rumble!" Buffer trademarked the phrase in 1992 and has reportedly made more than \$400 million from licensing its use in the decades since.



The global mobile payment market reached almost \$1.5 trillion in 2019. (Source: Allied Market Research) Fintech market research shows that the global market for mobile payments is increasing at an incredible rate. After hitting \$1.48 trillion in 2019, it's expected to continue growing at a CAGR of 30.1% and reach \$12.06 trillion in 2027.



Trying to sell your photo of the Eiffel Tower at night might just end up costing you in the long run. While the tower itself is part of the public domain (so feel free to snap away during daylight hours), its lighting display is a separate work of art—and a copyrighted one, at that. If you did want to sell your nighttime image of the magnificent illumination, you would need to request permission from the Société d'Exploitation de la Tour Eiffel, which runs the famous landmark.



Well it's a fact that even a gesture can be trademarked. Usain Bolt trademarking his name, and now he has gone so far as to trademark his signature "lightning bolt" victory move.

Words of Wisdom.

If you think your brand is being copied, contact your lawyer to discuss the situation. Confused customers can lead to lost business.

The more you differentiate your company's name, logo, and trademark from your competition, the better off your business will be. Protecting your branding assets is crucial.



Contact.



SUNDAY NDAMUGOBA
T: +255 688 609 931
E: sunday@abcattorneys.co.tz



LUCAS MADUHU
T: +255 688 609 931
E: lucas@abcattorneys.co.tz



MARGRETH SOMME
T: +255 688 609 931
E: margreth@abcattorneys.co.tz



GODFREY MOLLEL
T: +255 688 609 931
E: godfrey.mollel@abcattorneys.co.tz

Address

Jangid Plaza 4th Floor, Chaburuma Street,
Bagamoyo Road.

DARESSALAAM.DODOMA.ARUSHA.ZANZIBAR

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