

THE NEED FOR REGISTRATION OF
TRADEMARKS
IN THE UNITED REPUBLIC OF TANZANIA

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INTRODUCTION



Trademark registration is governed by the Trade and Service Marks Act of 1986 and Trade and Service Marks Regulations of 2000, as amended. Trademark registration is done through the Business Registrations and Licensing Agency's (BRELA) Online Registration System (ORS).

What is Trademark?

A trademark is a brand or logo that can be used to identify your goods from the products of your competitors. Trademarks are included under Intellectual Property rights along with copyrights and patents. The trademark should be registered if you want your company, brand, new products, or service to have its own distinct identity especially for the banks, telecoms companies, industries and franchise.

Registering the trademark assures that no one in the market can impersonate the product or service owned by you hence, eliminating the need to rebrand. Furthermore, registration of a trademark in Tanzania is essential in order to protect your intellectual property and guarantee your rights.

WHAT EXACTLY IS TRADEMARK REGISTRATION



Trademark registration in Tanzania is a legal process established by law. The brand and logo can be protected by registering a trademark, also known as logo registration/brand registration, which prevents others from using it. Registering a trademark allows the owner to obtain ownership of the logo/name/brand. If a corporation or individual wants to protect their logo against third-party abuse, it must go through the trademark registration procedure in Tanzania. In the event of trademark infringement, trademark registration provides the legal right to begin legal action against the third party.

Trademark registration also grants the owner with the exclusive right to use the mark for its products or services.

It is important to take note of some of the information and documents required in an application for Trademark registration:

- 1. A duly completed consolidated form.*
- 2. Name, occupation and address of the applicant.*
- 3. A power of attorney to appoint a Trademark agent (if required).*
- 4. An image of the proposed mark (except for word marks in ordinary type).*
- 5. A priority document (if applicable) with a verified English translation, if the proposed Trademark is in a language other than English.*
- 6. A specification of Nice Classification (NCL) description on the goods and services for which the Trademark is to be registered.*
- 7. Particulars of the owner, such an applicant can be either legal person or natural person. If the Applicant is a legal person insert incorporation number and for the natural person insert National Identification Number from NIDA as a mandatory requirement.*
- 8. Technical particulars of the trade or service mark application eg. Class of a mark in accordance with the NICE Classification of Goods and Services, type goods or services, etc.*

Moreover, paragraph “6” above, NCL is an international classification of goods and services established by the Nice Agreement of 1957 and applies to Trademark registration.

WHY ARE TRADEMARKS IMPORTANT?

1. Legal Protection: Failure to register a trademark exposes a company to litigation from firms that did register one under the same name, sign, slogan, or design. If this occurs, a company will be obligated to change everything it created, including the campaign, website content, and its brand identity.

2. Identity of the firm / Business entity : Startups may protect their brand by trademark registration. By applying for trademark of the firm's name, one distinguishes its services and goods from those of competitors and thereby acquiring intellectual property rights.

3. Trademark is for Life: A trademark is perpetual and requires periodic renewal. The trademark highlights the need to complete rigorous research to guarantee that the regulatory body does not decline a startup's application. As a result, it is prudent to retain the services of a reputable Intellectual Property service provider with a solid reputation to assist you with trademark filings for your firm.

4. Easy Communication Tool: A registered trademark clearly shows which brand the product belongs to. It can be easily located by the customers as it is a powerful instrument with a distinct identity, registered trademarks are easily traceable, and buyers can quickly find your goods/services.

5. Exclusive rights: A registered proprietor enjoys exclusive rights to use the registered Trademark. A person who is not a registered proprietor and uses a registered Trademark without permission, infringes the exclusive rights of a registered proprietor.

6. Inspires the Employees to Join: When a startup has a registered trademark, it is considered a brand and hence people are more likely to join a company with a strong reputation/goodwill. This is especially true in today's scenario where youngsters and talented/skilled professionals want to be associated with known brands, startups offering niche services/products which stand out.

7. Right to Civil claim: A person is entitled to institute proceedings for the prevention or recovery of damages over an infringement of a registered Trademark.

8. Criminalization: The Cybercrimes Act of 2015 (Cybercrimes Act) makes it a criminal offence for a person to use a computer system with the intention of violating intellectual property rights. The Cybercrimes Act defines intellectual property rights as the rights accrued or related to, among others, Trademarks. Therefore, a registered Trademark is protected under the Cybercrimes Act.



The punishment for committing this criminal offence is:

- **on a non-commercial basis:** a fine of not less than TZS 5,000,000 (approximately USD 2,163) or imprisonment for a term of not less than 3 years or to both fine and imprisonment; and
- **on a commercial basis:** a fine of not less than TZS 20,000,000 (approximately USD 8,650) or imprisonment for a term of not less than 5 years or to both fine and imprisonment. The court could also order the payment of compensation to the victim.

9. Trademark registration is not a union matter:

In mainland Tanzania and Zanzibar, separate Trademark laws and registration systems are in effect. Consequently, protection sought in one part of the union will not extend to the other part. To obtain Trademark protection throughout the union, registration must be effected in both mainland Tanzania and Zanzibar.

10. Need for Multinationals to Register their Trademarks in Tanzania.

It is important for a multinational like banks, mining companies, food chains etc. to register in Tanzania like in other countries where it has operations because it's not as widely known across the globe and registration guarantees protection of her unique name and services.

The Madrid Protocol is the other approach to escape registration in every country of operation, it is a straightforward and convenient way to register a trademark globally. It is a cost-effective method to file a trademark since you can file a single application that could grant you trademark protection in over 128 countries. One usually have to pay a single fee that grants you trademark access in several countries. You can expand your trademark portfolio globally through a centralized system.

The application steps for a Madrid Protocol are generally simple and easy. When filing for a Madrid Protocol, the trademark owner must submit a single application through an organization called the "World Intellectual Property Organization. This application then reaches the different countries that are members of the protocol. This protocol grants you significant cost savings as a way to file trademarks in different countries. It, however, requires that you provide accurate and detailed information before registering for a Madrid Protocol.

CONCLUSION

It is therefore only proper and advisable for the companies and other business entities to register their trademarks to tame possible violations of trademarks in the Tanzanian Market.

REFERENCES

The Cybercrimes Act, No 14, 2015

The Trade and Service Marks Ac, No 12, 1986

The Madrid Protocol on Trademarks, 1989

The Nice Agreement (NCL), 1957

Websites

<https://www.wipo.int/madrid/en/>





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