

INTELLECTUAL PROPERTY RIGHTS IN TANZANIA

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What is intellectual Property?

The term “*Intellectual property*” simply means the intangible property that includes patents, trademarks, copy right, and registered and unregistered design rights¹. It can also be referred to as the creations and inventions of the mind, both artistic and commercial.

Intellectual property rights are designed to promote and protect the creations and inventions of the mind. Artistic and scientific innovations enjoy legal protection under the intellectual property rights.

It is worth noting that Tanzania is a member of the ***African Regional Intellectual property Organization (ARIPO)*** and the ***World Intellectual Property Organization (WIPO)***.²

The ***African Regional Intellectual property Organization (ARIPO)*** is a regional industrial property organization that was set up on the **9th day of December, 1976**. The basic reason towards its establishment was to pool resources of the member countries in industrial property matters together to avoid duplication of financial and human resources.³

Registration Process and Protection of Intellectual Property Rights in Tanzania

The Constitution of the United Republic of Tanzania allows ownership of property and guarantees its protection.⁴ To this end, laws have been enacted to promote and protect intellectual property rights. In this paper, I shall briefly discuss some of the said rights and the laws regulating their registration process.

Copyrights

Copyrights are regulated by the ***The Copyright and Neighbouring Rights Act***.⁵ The Copyright Society of Tanzania (***COSOTA***) is an institution that administers the registration of Copyrights. Copyright protection is available to

¹ See Oxford, Dictionary of Law, 6th edition, Oxford University Press, U.S.A

² See www.wipo.int/members/en

³ See www.invent.com/aripo

⁴ See article 24 of the Constitution of the United Republic of Tanzania, 1977 (as amended from time to time).

⁵ The Copyright and Neighbouring Rights Act of 1999, Act No. 7 of 1999.

works of authors who are nationals of, or have their habitual residence in Tanzania.⁶

The duration of copyright protection is the life of the author and fifty years after his death.⁷ In case of the joint authorship, the duration of protection is the life of the last surviving author and fifty years after his death.⁸ For a work published anonymously or under pseudonym, duration of copyright protection is, subject to certain exceptions, fifty years from the date on which the work was either made, first made available to the public or first published, whichever date is the latest.⁹ Audio-visual works are protected for fifty years from the date on which the work was either made available to the public or first published, whichever date is the latest.¹⁰ Applied artwork is protected for twenty-five years from the date of making the work.¹¹

The law also provides for remedies in case of copyright infringement. Where there is an imminent danger of a copyright infringement or where there is a continued breach of a copyright, then the proprietor may apply for injunctive orders in a court of competent jurisdiction.¹²

It is worthwhile noting that Tanzania ratified the Berne Convention for protection of literary and Artistic works which treaty became effective on the 25th July, 1994. To this end, copyrights in Tanzania are territorial in the sense that all works done in the United Republic of Tanzania and those that are first published in Tanzania enjoy protection under the law notwithstanding the nationality of the authors.

Trade Marks

Trademarks are governed by **the Trade and Service Marks Act**.¹³ In Tanzania the registration of trademarks and patents are administered by the **Business Registration and Licensing Agency (BRELA)**. Registration of a trademark is for a period of seven years and may be renewed for further periods of ten years in perpetuity.¹⁴ Unregistered trademarks are also offered protection under

⁶ See Section 3 Ibid.

⁷ See section 14 (1) Ibid.

⁸ See Section 14 (2) Ibid.

⁹ See Section 14 (3) Ibid.

¹⁰ See Section 14 (4) Ibid.

¹⁸ See Section 14 (5) Ibid.

¹² See sections 36 and 37 Ibid.

¹³ See the Trade and Service Marks Act, Act No. 12 of 1986.

¹⁴ See Section 29 Ibid.

common law provided that it can be shown that the proprietor has established goodwill associated with its mark.

Trademark applications must be filed with the Tanzanian Trademark Office at **BRELA** in a prescribed form.¹⁵ The rights granted after registration dates back to the date of filing of the application. ¹⁶Trademarks are allotted goods or services for which the mark will be used. Both Tanzania and Zanzibar apply International Classification of Goods and Services (Nice Classification).

Patents

Patents enjoy protection under the **Patent (Registration) Act**.¹⁷ A patent may be registered for inventions (other than a discovery, scientific theory, mathematical method, aesthetic creation, computer program or presentation of information) after meeting specified requirements relating to novelty, utility and inventiveness.¹⁸ Registered patents endure for twenty years, subject to the payment of annual fees. The duration of protection is 20 years for patent of invention and 7 years for utility models. Absolute novelty is required for patents of inventions. An invention is new if it is not anticipated by prior art. Utility model must not form part of the state of the art, that is to say, not made available to the public by means of a written description anywhere in the world or by public use in Tanzania before the filing or priority date. Utility model must also not form part of the state of the art in patent and utility model applications filed in Tanzania having an earlier priority date as well as international patent and utility model applications filed under the PCT and designating Tanzania having an earlier priority date, provided the national phase of such applications in Tanzania has been properly entered into (and a English translation of the international application has been filed in due form and time).

Designs

There is no local system for registration of designs in Tanzania. However, Tanzania has ratified the Agreement on the Creation of the African Regional Industrial Property Organization, 1979 (effective for Tanzania as from 12 October 1983); and the Protocol on Patent and Industrial Designs within the Framework of African Region Industrial Property Organization (the Harare Protocol), 1982 (effective for Tanzania as from 01 September 1999).

¹⁵ See Section 21 Ibid.

¹⁶ See Section 28 (1) (b) Ibid.

¹⁷ See The Patent (Registration) Act, [Cap 217 R.E. 2002]

¹⁸ See Sections 14 and 38 Ibid.

Despite the above statutory limitations, ***the Patents (Registration) Act***¹⁹ has provisions which recognize designs registered in the United Kingdom.²⁰ Accordingly, designs can be protected in Tanzania even by registration in the United Kingdom. ***The Patents (Registration) Act*** provides that the rights and privileges of proprietors of designs registered in the United Kingdom are extended to Tanzania and Zanzibar during the term of design registration.

Conclusion

The brief above is only a description of the various intellectual property rights that can be registered in Tanzania. The process of registration and the attendant fees are available on request.

¹⁹ Ibid.

²⁰ See Section 78 Ibid.