

Laws protecting intellectual property in Tanzania Mainland.

Creations of human mind such as inventions, literary and artistic works, designs and symbols as well as names and images used in commerce fall under intellectual property.

Some intellectual property experts divide intellectual property into four branches and others three. These are copyright, trademark, patent and sometimes trade secrecy. For the purpose of this article, we have classified the same into three parts namely copyright, trademark and patent.

Intellectual property rights are recognised throughout the world and in our continent there are two major organizations which oversee intellectual property. These are the World Intellectual Property Organisation (WIPO) and African Regional Industrial Property Organization (ARIPO) which was incorporated through Harare Protocol 1982 which Tanzania is part of.

Copyright

In Tanzania, the main statute that regulates copyright is the Copyright and Neighbouring Rights Act Cap. 218 R.E 2019. Section 4 of this law defines copyright as the sole legal right to print, publish, perform film or record a literary or artistic or musical work.

Things like books, pamphlets and other written materials or computer programmes all enjoy their protection in this book of statute. The main institution that can be used to register an artistic work is Copyright Society of Tanzania (COSOTA) which was established under section 5 of the Copyright Act.

As for the litigation aspect, courts of law have for years been upholding provisions of the statute and damages granted for infringement.

In the case of Jutoram Kabatele Mahalla vs Vocational Education and Training Authority in Civil Appeal No. 63 of 2019 whereby the appellant was a registered owner of various books and products that have some special road traffic signs which the other party in the case used without consent, the Court of Appeal recognised the appellant as the owner and ordered the authority to, among other reliefs, pay the appellant damages amounting to 50,000,000/-.



AUTHOR

EMMANUEL G. MBUGA
PARTNER

QUALIFICATIONS

LLB | PDGL

EXPERTISE

LITIGATION | CORPORATE

CONTACTS

+255 715 346 061
mrindoko@legisattorneys.co.tz



Golden Tulip Dar City Center,
4th Floor 11104 Jamhuri St.

Trademark

This is mainly governed by the Trade and Service Marks Act, Cap. 326. Section 2 of this law defines trademark as any visible sign used or proposed to be used in connection with or in relation to goods or services for the purpose of distinguishing in the course of trade or business the goods or services of one person from those of another.

For example, one can mention a mark that introduces a product to customers or even a quote. Trademarks are registered with the Business Registration and Licensing Agency (BRELA). The law protects the registered owner of a trademark and any use without the owner's authorization or consent entitles the owner to seek damages in a court of law.

In the case of Double Diamond Holdings Ltd vs East African Spirits T. Ltd and Another, Commercial Case No. 8 of 2018, the court faced a scenario whereby two parties were in dispute over resemblance of their trademarks; one uses White Diamond and another Diamond Rock. The court ordered that they had both registered their marks thus have exclusive ownership and there was no any confusion.

Patent

This is all about invention or innovation such as a new technological in industrial sector and other technologies. The Patent (Registration) Act Cap. 217 is among the laws that oversee this area of intellectual property.

For one to register this type of property, there are two places to go to: BRELA as per section 18 (1) of the Patent Registration Act and ARIPO. However, this type of property has seen few successful owners in our country since for a person to acquire registration; they must be the universal inventor of the said product.

Innovative Tanzanians are strongly advised to register their works as this gives one higher right than the unregistered owner. It is weird that at this age, some people tend to hide their ideas, thinking it's the proper way to preserve the same.

For example, there are many local herbs said to treat different diseases but the same are being hidden within small communities. We call upon relevant authorities to sensitize Tanzanians so that those who are innovative can protect their works locally and internationally.

Note: The material and information contained in this article are for general information purposes only. They only provide either elementary or basic legal knowledge on the above subject. Anyone considering legal action should consult an experienced lawyer to understand current laws and how they may affect a case in question.