

IMPORTANT ASPECT OF INTELLECTUAL PROPERTY IN ZANZIBAR

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1.0 Introduction

Zanzibar is 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 2008 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 (BPRA) in 2012 by act no. 13 of 2012. BPRA is responsible for handling of all IP matters in Zanzibar.

2.0 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.

i. 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

ii. Renewal of Trade mark

After a proprietor of a mark has enjoyed a ten years exclusive right over a registered trademark, is required bsy 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.

- a. Renewal is done by Filling form no. 16 of the trademark forms.
This form contains a request for renewal.
- b. The form must be accompanied by a proof of payment of renewal fees.
- c. Upon filling before the registry, must be entered in the Register.
- d. The registrar shall cause to publish the renewal in the official gazzete
- e. Thereafter, the registrar shall issue a certificate of renewal.

NB: 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.

iii. Recordal 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.

iv. 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.

v. 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;

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

3.0 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.

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