

RECENT LEGISLATIVE CHANGES IN TANZANIA

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INTERNATIONAL TRADEMARK ASSOCIATION

Introduction

This Discussion focuses on:

Two Recent Legislation

1. The Amendments to the Merchandise Marks Act 1963
i.e. the Merchandise Marks Regulations 2008
2. The New Law in Zanzibar *i.e. the Zanzibar Industrial Property Act 2008*

Tanzania

- Two territories, Tanganyika and Zanzibar
- United in 1964
- Common Law Legal System
- One Country with two separate Trademarks laws.
- Protection must be sought separately in each territory.

Trademark Law in Tanzania

Trade and Service Marks Act, 1986.

- Enacted in 1986, to regulate trade and service marks in Tanganyika
- Became operational in October 1994

The Zanzibar Industrial Property Act 2008

- Enacted in 2008 to regulate the entire Industrial Property landscape in Zanzibar
- Became operational in September 2008

The Recent changes in Tanganyika

The Merchandise Marks Act 1963 [Cap 85 R.E 2002]

- Enacted in 1963 to Combat counterfeiting.
- Never became operational until 2005!
- Can a 1963 legislation meet the present challenges?
- Criminalised counterfeiting activities
- Amended by the Written Laws (No.2) Act 2007
- The Amendments brought some solutions

2007 Amendments

The Written Laws (Miscellaneous Amendments) (No.2) Act, 2007

- Amends the Merchandise Marks Act 1963
- Key Changes, **addresses the problem broadly**
- Minister Empowered to **Make Regulations**
- Inspectors given various powers i.e. **investigate, seize, conduct summary proceedings, punish**

Decisive Regulations

The Merchandise Marks Regulations, 2008

- Together with the 2007 Amendments, serve to Amend the Merchandise Marks Act 1963
- Defines counterfeit goods as **goods available as a result of counterfeiting and piracy**
- Establishes of a **task force to combat Counterfeiting (good coordination)**
- Provides for Chief Inspector's power to detain or seize any **goods reasonably suspected to be counterfeit**

Decisive Regulations

- Establishment of zones and ranked officers to monitor border posts with powers **to seize and detain** any goods **reasonably suspected** to be counterfeit
- Provides for **costs associated with destruction of counterfeits** and fines
- Provides for **Anton pillar orders and mareva injunctions**
- Forms for instituting proceedings before either **the chief inspector or custom officials**
- Setback: The sanctions under the law not strong enough to stamp out counterfeiting

The New Law in Zanzibar

The Zanzibar Industrial Property Act 2008, Act No 4 of 2008

- **Codifies Industrial Property law in one legislation**, i.e. Trademarks, Patents, Industrial Designs, Geographical indications, unfair competition etc
- Good news for trademarks owners, **broader protection**
- Protection extended to **service marks, non traditional trademarks i.e. sound, colour, scent, well-known marks**

The New Law in Zanzibar

- Protection against identical or similar signs on identical or similar goods and services **likely to cause confusion**
- also protects **collective marks, certification marks and trade names.**
- Registration term reduced from 14 years to **10 years.**
- Renewable for consecutive terms of **7 years,**

The New Law in Zanzibar

- **6 month renewal grace period**
- **On enforcement; border measures, criminal and civil remedies, injunctions as well as damages.**
- **Challenge: no Regulations promulgated to support the Legislation**

Conclusion

- Time to turn the tables on Counterfeiters?
- Why Not; Brand Owners , take Action and protect your brands!

Thank You for listening and karibu Tanzania!

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