

Moshi Co-operative University

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INTELLECTUAL PROPERTY LAW IN TANZANIA

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MOSHI CO-OPERATIVE UNIVERSITY

FACULTY OF LAW

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INTELLECTUAL PROPERTY

LAW

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A SYNOPSIS OF TANZANIA IPR LAW

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BY

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The course on Intellectual Property Law is designed to impart to the law student basics in the Intellectual and Industrial Property Rights protection according to rights and protection accorded to such rights and reason for the protection, global development and attendant pointer to the future. The law student should emerge out of the course with a clear understanding of Intellectual and Industrial Property Rights.

<u>TOPIC ONE: GENERAL INTRODUCTION TO INTELLECTUAL & INDUSTRIAL PROPERTY RIGHTS</u>



- The term ***Intellectual Property*** applies to intellectual creativity of a creator such as invention, musical, literary, symbols, names, designs, images and even ideas. Intellectual property is an intangible asset of a person.
- It is a legal concept which refers to creations of the mind for which exclusive rights are recognized. Intellectual property, like any other form of conventional forms of property, is an asset.
- The owner has the right to prevent the unauthorized use or sale of the property. Since Intellectual property is intangible, that is, it cannot be defined or identified by its own physical parameters, thus intellectual property must be expressed in some discernible way for enabling it to be protected.
- ***Intellectual property (IP) rights*** are the legally recognized exclusive rights to creations of the mind.
- ***Intellectual property law*** is that area of law concerned with legal rights associated with creative effort or commercial reputation and goodwill. It is a broad area of study that covers different from of rights like copyright, trademarks, patents and designs¹.
- Under intellectual property law, owners are granted certain exclusive rights to a variety of intangible assets, such as musical, literary, and artistic works; discoveries and inventions; and words, phrases, symbols, and designs.
- Common types of intellectual property rights include copyright, trademarks, patents, industrial design rights, trade dress, and in some jurisdictions trade secrets.
- [World Intellectual Property Organization](#) (WIPO) was created in 1967 "to encourage creative activity, to promote the protection of intellectual property throughout the world.

¹Bainbridge, D. (2009) Intellectual Property, 7th edition, Pitman Publishing Imprint, p.3

▪ **IMPORTANCE OF IPR**

▪ **A) Positive Impacts**

- IPRs play very important role in the progress and development of the society. IPRs not only provide incentive to the creator of his creation but also lead to a healthy competition among creators which ultimately leads to the progress of the society. Some of the positive impacts of IPR are:
- IPRs are important for free flow for energy for enhancing invention and research. IPRs provide incentive to the individuals for new creations. IPRs provide due recognition to the creators and inventors. These laws provide them both the means and incentive to create newer works, products and services.
- Intellectual Property Rights enhance innovation and creativity by protecting the rights of inventors and artists. Since the filing of patents requires the disclosure of information that would enable others to replicate the inventor's discovery, others can use and build upon this shared knowledge to create newer and/or better products. IPRs ensure material reward for intellectual property.
- IPRs ensure the availability of the genuine and original products. Intellectual Property rights, such as patent and copyrights, are an important means used by firms to help protect their investments in innovation (Shankar Narayanan, 2010).
- IPRs may be helpful in the solution to global challenges like in the field of alternate sources of energy, new products to the farmers and development of low cost drugs for poor people.
- IPRs are necessary to stimulate economic growth. Protection of intellectual property rights is essential in maintaining economic growth. They encourage fair trading which would contribute to economic and social development. Effective enforcement of intellectual property rights is critical to sustaining economic growth across all industries and globally.

- **B) Negative Impacts**

- Though the purpose of IPRs is to enhance innovation and creativity by protecting the rights of creators and leading to the growth and advancement of human beings but do IPRs actually play a constructive role in the progress and development of society and mankind or it is a form of intellectual protectionism or a form of a temporary monopoly enforced by the state, is an issue of great concern.
- They are considered to befitting concentrated i.e. IPRs confer authority over resources to a few. The few gain power over the goals of many.
- The objective of IPRs is to protect the public interest but, in fact, the public interest is harmed. Pharmaceutical product prices form substantial portion of health care costs and strong intellectual property protection is one of the major reasons for high health care costs (Agatha, 2013).
- For example, patent of life saving drugs had allowed the countries to charge higher than the marginal cost of the production in the name of cost of research and development.
- This has led to an increase in the cost of drugs and they are not affordable by the poor sections of the society. When there is control by some particular group, IPRs actually discourage invention.
- Patent of the ideas may prevent the owner of a property to utilize it according to his wishes. In order to serve the purpose IPRs must focus on the needs of the poor and developing countries but in reality intellectual properties tend to be governed by economic goals preventing the progress of poor.
- Thus, IPRs are considered as intellectual protectionism, intellectual monopoly or government-granted monopoly by which the public interest is harmed and progress is stopped.

- **TYPES OF INTELLECTUAL PROPERTY RIGHTS**

- **Patents**

- A patent grants an inventor the right to exclude others from making, using, selling, offering to sell, and importing an invention for a limited period of time, in exchange

for the public disclosure of the invention. An invention is a solution to a specific technological problem, which may be a product or a process.

▪ **Copyright**

- **A** copyright gives the creator of original work exclusive rights to it, usually for a limited time. Copyright may apply to a wide range of creative, intellectual, or artistic forms, or "works". Copyright does not cover ideas and information themselves, only the form or manner in which they are expressed.

▪ **Industrial design rights**

- An industrial design right protects the visual design of objects that are not purely utilitarian. An industrial design consists of the creation of a shape, configuration or composition of pattern or color, or combination of pattern and color in three-dimensional form containing aesthetic value. An industrial design can be a two- or three-dimensional pattern used to produce a product, industrial commodity or handicraft.

▪ **Trademarks**

- **A** trademark is a recognizable sign, design or expression which distinguishes products or services of a particular trader from the similar products or services of other traders.

▪ **Trade dress**

- Trade dress is a legal term of art that generally refers to characteristics of the visual appearance of a product or its packaging (or even the design of a building) that signify the source of the product to consumers

▪ **Trade secrets**

- **A** trade secret is a formula, practice, process, design, instrument, pattern, or compilation of information which is not generally known or reasonably ascertainable, by which a business can obtain an economic advantage over competitors or customers

▪ **Geographical indications**

- Geographical indications and appellations of origin are signs used on goods that have a specific geographical origin and possess qualities, a reputation or characteristics that are essentially attributable to that place of origin. Most

commonly, a geographical indication includes the name of the place of origin of the goods.

▪ **OBJECTIVE OF INTELLECTUAL PROPERTY RIGHTS**

- The stated objective of most intellectual property law (with the exception of trademarks) is to "Promote progress." By exchanging limited exclusive rights for disclosure of inventions and creative works, society and the patentee/copyright owner mutually benefit, and an incentive is created for inventors and authors to create and disclose their work.

▪ **Financial incentive**

- These exclusive rights allow owners of intellectual property to benefit from the property they have created, providing a financial incentive for the creation of an investment in intellectual property, and, in case of patents, pay associated [research and development](#) costs.

▪ **Economic growth**

- The WIPO treaty and several related international agreements are premised on the notion that the protection of intellectual property rights is essential to maintaining economic growth. The *WIPO Intellectual Property Handbook* gives two reasons for intellectual property laws:
 - To give statutory expression to the moral and economic rights of creators in their creations and the rights of the public in access to those creations.
 - To promote, as a deliberate act of Government policy, creativity and the dissemination and application of its results and to encourage fair trading which would contribute to economic and social development.

• **Morality**

- According to Article 27 of the [Universal Declaration of Human Rights](#), "everyone has the right to the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author". Although the relationship between intellectual property and [human rights](#) is a complex one, there are moral arguments for intellectual property.

- **Infringement, misappropriation, and enforcement**

- Unauthorized use of intellectual property rights, called "infringement" with respect to patents, copyright, and trademarks, and "misappropriation" with respect to trade secrets, may be a breach of civil law or criminal law, depending on the type of intellectual property, jurisdiction, and the nature of the action.
- **Patent infringement** typically is caused by using or selling a patented invention without permission from the patent.
- **Copyright infringement** is reproducing, distributing, displaying or performing a work, or to make derivative works, without permission from the copyright holder, which is typically a publisher or other business representing or assigned by the work's creator. It is often called "piracy".
- **Trademark infringement** occurs when one party uses a trademark that is identical or confusingly similar to a trademark owned by another party, in relation to products or services which are identical or similar to the products or services of the other party.

- **REASONS FOR IPR PROTECTION**

- General Reasons for protection of intellectual property is that Countries have laws to protect Intellectual Property Rights for two reasons related to each other:-
- It gives statutory expression to the moral and economic rights of creators in their creations.
- It promotes, as a deliberate act of government policy, creativity and the dissemination and application of its results, and to encourage fair trading, this contributes to economic and social development.
- Specific Reasons includes Patents Protection of Patent creates a favorable climate for the transfer of technology by means of security it provides for the patentee.
- Trademarks Protection of Trademarks enables the enterprise to establish a market position based on the trademark. Hence an effective protection of trademarks is an essential aspect of technological transfer and development.

- Copyright Protection of copyrights creates an enabling environment for authorship and development of Arts as it acts as a reward to Authors and Artists.

- **QUESTION FOR FURTHER REFLECTION**

- “The trend in intellectual property law is toward greater harmonization of rights across the globe” Discuss the validity of this statement.



<u>TOPIC TWO: TRADE AND SERVICE MARKS</u>
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- **INTRODUCTION**

- A trademark can be described as a sign or symbol placed on, or used in relation to, one trader's goods or services to distinguish them from similar goods or services supplied by other traders. It may also be defined as any sign capable of being represented graphically which distinguishes the goods or services of one business from those of another.²
- A trademark is a sign, or a combination of signs, which distinguishes the goods or services of one enterprise from those of another. Such signs may use a phrase, word, letter, numeric device, symbol, name, picture, shape and colour, as well as any combination of the above.
- A trademark is simply a word, phrase, symbol, or design that appears on the product being sold and which distinguishes itself from other words, phrases, symbols or designs in the marketplace. A service mark is a type of trademark used by the owner or authorized user to provide services instead of goods. A service mark is also represented by a word, phrase or symbol. Another word for trademark is 'brand name'.
- Section 2 of the **Trade Mark and Service Mark Act, Cap 326 R.E 2002**, defines trade or service mark to mean any visible sign used or proposed to be used upon, in connection with or in relation to goods or services for the purpose of distinguishing

² Hart T., Op. Cit., at pg 79. Read also the case of Coca-Cola Trademark Applications (1986) 2 All ER N 274

in the course of trade or business the goods or services of a person from those of another³.

- The Act further defines visible sign to mean any sign which is capable of graphic reproduction, including a word, name, brand, device, heading, label, ticket, signature, letter, number, relief, stamp, seal, vignette, emblem or any combination of them. Thus sound and smell can not be registered as trade mark or service mark under the Trade and Service Mark Act.
- An increasing number of countries also allow for the registration of less traditional forms of trademark, such as three-dimensional signs (like the Coca-Cola bottle or Toblerone chocolate bar), audible signs (sounds, such as the roar of the lion that precedes films produced by MGM), or olfactory signs (smells, such as perfumes). But many countries have set limits as to what may be registered as a trademark, generally allowing only signs that are visually perceptible or can be represented graphically.

▪ **FUNCTIONS OF TRADE & SERVICE MARK**

- In the case of *SA CNL-Sucal v Hag GF AG*⁴, the European Court of Justice described the essential function of trade mark as giving the consumer or the ultimate user a guarantee of identity of the origin of the marked product by enabling him to distinguish, without any possible confusion, that product from others of different provenance.
- In another case of *Phillips Electronic NV v Remington Consumer Product*⁵, the court of Appeal of England stated that the function of trade mark is to identify the trade origin of goods and services. That function is important to protect both traders and consumer.
- Generally trade mark has the following functions: i) To differentiate one trader's goods or services from those of another; ii) It is an essential tool for selling goods; iii) Assist the consumers in choosing goods basing on personal experience. iv)

³ This means that in Tanzania, unlike some other countries, trade or service mark must be visible sign and capable of being represented graphically. Thus sound and smell can not be registered under the Act as they are not visible and they can not be represented graphically.

⁴ [1990] 3 CMLR 571

⁵ [1999] RPC 809

Guarantee repetition. Once the consumer has tried a product with a particular name and finds it satisfactory, repeat purchase of the goods bearing that name will guarantee repetition of that satisfaction; v) It can also act as the warning against further purchase, particularly where the consumer has had a bad experience.

- **THE LAW OF TRADE & SERVICE MARK IN TANZANIA**

- Tanzania is a United Republic, made up of two countries namely Tanganyika (now “Mainland Tanzania”) and the Islands of Zanzibar and Pemba, collectively known as “Zanzibar”. Both countries were British colonies and thus followed the common law legal system that was bequeathed to them.
- Although these two former states united in 1964, they still maintain separate trademarks laws and registration systems. Consequently, protection sought in one part of the union will not extend to the other part.
- To obtain trademark protection throughout the union, protection must be sought in both Tanganyika and Zanzibar (i.e. by filing separate trademark applications.)
- In Tanzania Mainland, trademarks are governed by the Trade and Services Marks Act⁶. This legislation was enacted in 1986 and became operational in October 1994 following the publication of the commencement notice in the official Gazette.

- **TRADEMARK PROTECTION**

- For the trade mark to be availed protection under the IPR laws, the producer of the goods or the person who designed the mark must make a formal application to the registrar. Each separate trade mark must be the subject of a separate application.

- **REGISTRABLE AS TRADEMARK**

- For a mark to be registered it must meet two important conditions: **Capable of being represented graphically; and Distinctiveness⁷**.
- A trade or service mark is distinctive if it is capable, in relation to goods or services in respect of which it is registered or proposed to be registered, of distinguishing, goods or services with its proprietor from goods or services of another person/producer.

⁶ Cap 326 R.E 2002

⁷ See definition of trade and service mark under section 2 and also see section 16 of the Act, Cap 326

- In determining whether a trade or service mark is capable of distinguishing goods or service of one producer from another, the registrar will consider the extent to which the trade or service mark is inherently capable of distinguishing goods or services of one producer from another; and by reason of the use of the trade or service mark or of any other circumstances, the trade or service mark is, in fact capable of distinguishing as aforesaid.
- In case the application for registration of a trade mark is objected, it is always the burden of the applicant of the registration for the trade mark to satisfy the Registrar that his trade mark is distinctive and it is not likely to cause confusion or to deceive the consumers.
- In the *Matter of Trade Marks Ordinance Cap. 394 and In the Matter of Trade Mark Application No. 16549 between Cheesebrough-Pond's Inc. and Gupyaka (1973) Agencies Cheesebrough-Pond's Inc.*,⁸, the owners of the trade mark "Vaseline" appealed against the decision of the Registrar of Trade Marks to register "Vasofine" under the Trade Marks Ordinance. The Registrar had ruled that the appellant company had failed to prove that there would be confusion if "Vasofine" was registered.
- The court held that the two marks "Vaseline" and "Vasofine" look alike as they are written in the same way and have the same number of letters and are also similar phonetically.
- The court further held that the burden of proof is all times upon the applicant for registration of a Trade Mark to satisfy the Registrar that his mark is not likely to deceive or cause confusion; the registrar shifted the burden which was a serious misdirection.
- The trade mark may be limited in whole or in part to one or more colour. If during registration there was no specification of colour, the assumption is that the trade mark is registered for all colours.

- **UNREGISTERED MARK**

- A mark will not be registered if the use of which would be contrary to law or morality or which would be likely to deceive or cause confusion as to the nature,

⁸ [1982] TLR 111

geographical or other origin, manufacturing process, characteristics or suitability for their purpose, of the goods or services concerned⁹ and trade or service marks which consist of solely of the shape, configuration or colour of the goods, or its containers¹⁰.

- Also the trade or service marks which are identical with, or imitate the armorial (relating to coat of arm) bearings, flags and other emblems, initials, names, or abbreviations or initials of name or official sign or hallmark of any state or of any organisation created by an International Convention, unless authorised by the competent authority of that state or international organisation are not registerable.
- Equally trade or service marks which constitute reproductions in whole or in part, imitations, translations or transcriptions, liable to create confusion of trade or service marks and business or company names which are well known in the country and belong to third parties are not registerable¹¹.

- **HONEST CONCURRENT USE**

- It may appear that more than one producer have been using a mark which is identical or which resemble each other and one of them or all wants to register the said mark.
- In this case the Act provides that, *trade or service marks that are identical or nearly resemble each other in respect of the same goods or services or closely related goods or services may be registered in the name of more than one proprietor, subject to any conditions and limitations, if any, which it is considered necessary to impose*¹².

⁹ See *Re H.N Brock* (1910) Ch 130, the court of appeal of England refused registration of the word “orlwool” on ground that phonetically the word sounded as “all wool” and would be deceptive if the goods to which it was applied were not made entirely of wool. In *Re Hallelujah Trade Mark* (1976) RPC 605, in this application, it was held that the religious connotation of the word Hallelujah made it inappropriate as a trade mark for clothing.

¹⁰ See the case of *Redaway & Co's Application* (1914) 31 RPC 147 and *Smith, Kline & French Laboratories Ltd v Sterling-Winthorp Group Ltd* (1975) 2All ER 578.

¹¹ See section 19 of the Act.

¹² Section 20

▪ **RIGHTS OF TRADEMARK OWNER**

- The law gives the owner of trade mark exclusive right to the use of a trade or service mark in relation to any goods including sale, importation and offer for sale or importation¹³.
- In case of co-owners each co-owner is entitled to exercise the exclusive rights without other co-owner's consent. The owner of the trade mark may licence to another person. Trade mark can also be transferred by way of inheritance.
- The duration for protection of trade or service mark is a period of seven years from the date of registration but may be renewed for further 10 years¹⁴.

▪ **TRADEMARK INFRINGEMENT**

- A person infringes a registered trade mark if he uses in the course of his trade a sign that is identical with the trade mark of another producer/person and is used in relation to goods or services similar to those for which the trade mark is registered; or the sign is similar to the trade mark and is used in relation to goods or services identical with or similar to those for which the trade mark is registered.¹⁵.
- For the claimant to succeed in the case of infringement, he has to show that the two marks are identical as are the goods or services to which they are applied.
- In the case of ***Kiwi European Holdings Bv versus Sajad Ali Limited***¹⁶, the court held that the right to exclusive use upon registration of a trade mark can not be infringed unless it is proved that the offending mark is either identical with the registered trade mark or it is so resembles the registered trade mark as to be likely to deceive or cause confusion in relation to the goods in respect of which the mark is registered.
- The court further held that in deciding the question of similarity between two marks, one has to approach it from the point of view of a man of average intelligence and of imperfect recollection, and that an ordinary purchaser is not

¹³ See section 31 of Cap 326

¹⁴ See section 29(1)

¹⁵ See the cases of *British Sugar plc v James Robertson & Sons Ltd* (1996) RPC 281; *Unidoor v Mark & Spencer* (1988) RPC 275; *Wagamama Ltd v City Center Restaurant plc* (1995) FSR 713; and *Baywatch Production Co Inc v The Home Video Channel* (1997) FSR 22, the court held that there was no confusion on part of the public on the popular television programme 'Baywatch' and a programme on adult television channel called BABEWATCH. See also section 32 of Cap 326

¹⁶(2005) TLR 434

gifted with immense powers of observation. The court also held that in general, proof of a single act of infringement by the defendant is sufficient to justify the plaintiff in bringing his action.

- In the above case the plaintiff was the registered proprietor in Tanzania of the trade mark KIWI. One day a product development representative of the plaintiff bought from the defendant's shop KIWI shoe polish which turned out not to be a true KIWI product although it had many features of the original KIWI including the logo on it, but the year of manufacture was missing and the motto on it was slightly different from the true KIWI. The plaintiff sued the defendant for infringement of the plaintiff's registered trade mark and calculated to cause confusion and passing off.
- In the case of ***Reed Executive plc & Another v Reed Business information Ltd and Other***¹⁷, the court stated that the trade mark proprietor must show that: Use of a sign which is identical to his registered mark; and Use for goods or services which are identical to those for which the mark is registered¹⁸.
- It is also infringement of trade mark to advertise by comparing the merit of the product or service being advertised with that of a rival, using the rival's brand name¹⁹.

▪ **REMEDIES**

- Trade mark or service mark infringement attracts both civil and criminal liabilities. A claimant may apply for injunction to prevent further infringement and may also pray for damages.
- It is an offence under our law for any person to sell any goods to which any forged trademark or false trade description is applied or to which any trademark or mark so nearly resembling a trademark as to be likely to deceive is applied²⁰.

¹⁷ (2004) EWCA Civ. 159

¹⁸ In the case of *Origins Natural Resources Inc v Origin Clothing Ltd* (1995) FSR 280, the addition of the letter 's' to the word Origin was held not to be identical.

¹⁹ See *News Group Ltd v Mirror Group Ltd* (1989) FSR 126; *Barclays Bank plc v RBS Advanta* (1996) RPC 307 and *Vodafone Group plc Orange v Personal Communications Services Ltd* (1997) FSR 34.

²⁰ Section 6 of the Merchandise Marks Act, Cap 85 R.E 2002 (this Act was enacted in 1963 to combat counterfeiting activities. Surprisingly, this legislation did not become operational until 15 April 2005 due to the delay in the publication of the commencement notice in the official Gazette). See also Regulation 50 of the Merchandise Marks Regulations, 2008

- Any person convicted of an offence under the law may be sentenced to pay a fine or serve a prison term of 1 year or both.

- **DEFENCES**

- It is not an infringement if the defendant's trade mark is also registered.
- Use of person's name or address is not an infringement provided that such use is consistent with honest practices in industrial or commercial matters²¹. (bonafide use-Section 34).

- **PASSING OFF**

- The practice of passing off involves one trader giving the consumers the impression that his goods are that of another trader who has an
- goodwill. It also occurs where one trader indicates that his goods are of same quality as those of another trader or where one trader creates an impression of association with another trader.
- **Passing off first may cause loss of sales on part of the first trader**; this is where the person passing off uses the goodwill established by the first trader to sell his goods. **Passing off also may lead loss of reputation where the second trader's goods are not of the same standard as those of the first trader.**
- **Passing off is a tort.** The law of passing off is used to protect honest traders who have acquired goodwill on their trader mark which are not registered or where the mark is registerable. This means that a producer who uses a mark which is not registered may obtain protection under the common law of passing off²².

- **DIFFERENCES BETWEEN TRADEMARK & PASSING-OFF**

- Once a trade mark is registered, protection against infringement is automatic. The proprietor of trade mark needs to prove nothing. On the other hand, the claimant in passing off action must demonstrate the presence of goodwill in order to have a right of action. It should be noted that inaction of passing off it is not necessary for the plaintiff to prove that the defendant copied exactly the goods of the plaintiff. Chity J (at p. 502), with regard to passing-off actions observes that, "*no defendant,*

²¹ In *Asprey & Gerrard Ltd v WRA (Guns) Ltd* (2001) EWCA Civ. 1499, (2002) FSR 30, the court of appeal of England held that the own name defence is not available to a new company. See also section 34 of Cap 326

²² See section that of the Act, Cap 326

so far as I know, puts forward an exact copy. The imitation would be too gross.... He tries to take many of the striking points in his adversary's wrapper or the like, then he puts in certain points of distinction..... the intention being to make it as like as can be for the purpose of deceiving the ultimate purchaser, and still reserving a loop-hole for escape when the matter is brought in to court by saying the two things are not alike"²³. For the claimant to succeed in an action of passing off he must prove three important issues

- Existence of the claimant's/plaintiff's goodwill;
- A misrepresentation; and
- Damage²⁴.
- In the case of ***the East African Tobacco Co., Ltd versus the Colonial Tobacco Co., Ltd***²⁵ after the appellants Crescent and Star brand of shag tobacco had established a considerable reputation amongst the native peasants of the Eastern and Northern provinces of Uganda, where it was generally known among illiterate natives as Chapa ya Feza or Silcer Brand, the respondents put in the same market their Mpanga Brand of Shag tobacco which was sold in packets identical in size, colour and shape with the packets in which the appellant's tobacco was sold.
- The levels of both brands were fixed to the packets in the same manner and position and though they bore different designs they were identical in size and colour. Both brands were sold by retailers to illiterate natives as Chapa ya Feza.
- The court held *that if a manufacture sells goods in a get-up which so clearly resembles that of another person's goods as to enable his own goods to be sold as a the goods of that other person, the manufacturer puts an instrument of*

²³ As per Sir Charles Law, C.J., in *the East African Tobacco Co., Ltd versus the Colonial Tobacco Co., Ltd* 5EACA 6, at p. 7

²⁴ See the cases of *Reckitt & Colman Products Ltd v Barden Inc.* (No.3) (1990) 1 All ER 873; *Conorzio del Prosciutto de Parma v Marks & Spencer plc* (1991) RPC 351; and *Erven Warnink Besloten Vennotschap v J. Townend & Sons (Hull) Ltd* (1979) AC 731, in this case the court held for the claimant to succeed in the action of passing off he must show that there was a misrepresentation made by a trader in the course of trade to prospective customers of his or ultimate customers of goods or services supplied by him, which is calculated to injure the business, or goodwill, of another trader and which causes actual damage to the business or goodwill of the trader by whom the action is brought or will probably do so.

²⁵ 5 EACA 6,

fraud in to the hands of the shopkeeper. The law will not permit a manufacturer to put a shopkeeper in such position.

▪ **TRADEMARK & DOMAIN NAMES**

- An Internet domain name is an alpha-numeric mnemonic device that can be mapped on to an Internet Protocol ('IP') address to enable users to 'surf the web' more easily than if they had to remember the details of each IP address they wanted to visit. Internet domain names can be easily remembered because they are usually chosen in a form that relates somehow to the website the person might want to access: for example, www.microsoft.com for the Microsoft corporation.
- Clearly, a domain name can be a very valuable business asset in that it can operate like a combination trademark and shop front that both assists customers locate a commercial website, and can develop goodwill in the sense of attracting custom over a period of time. Outside the purely commercial arena, Internet domain names can also be valuable in assisting people find specific information, either as pointers to the information *per se* or as pointers to a useful source of information (such as a government information website, library website, university website etc). Because of their uniqueness a domain name can only map onto one IP address at a time and because of their potential value, the commercial and legal systems have struggled in recent years to classify the status of domain names²⁶.

▪ **CYBERSQUATTING**

- Cybersquatting, also known as "domain squatting," is a practice that has gained an incredible amount of volume in the past two decades with the rise of the Internet. Cybersquatting is essentially when any individual purchases/registers a domain name that is not related to their business or personal interests with the intention of achieving financial gain through the popularity of the domain's name.
- There are numerous versions of cybersquatting, but they all involve buying a domain name that is easily associated with something entirely separate from the

²⁶ Lipton, J.D., Beyond Cybersquatting: Taking Domain Name Disputes Past Trademark Policy, at pg 4 - 5

buyer's intentions. Since the purchased domain is theoretically popular, it becomes easy for the squatter to make money off of hapless visitors looking for something entirely different.

- One way that squatters can make money with their domains is by selling them back to the "rightful" owner for a significant amount of money. For instance, if Microsoft were forced to purchase the domain Microsoft.com, it would not be unreasonable for them to be willing to pay several million dollars. Of course, there is no concern that such large companies as Microsoft are going to lose their domains. The real issue is with new companies or individuals who are just coming into the public eye. It is a common practice for squatters to claim domains that feature these company and individual names very quickly with the hope of making an easy buck.
- Another tactic is for the squatter to hold on to the domain and benefit from the traffic that comes to the website. For instance, if Joe Smith is a local mechanic with no website, a squatter might purchase the JoeSmith.com domain name. Mr. Smith's customers may perform an Internet search for Joe Smith and come across the website. The squatter can set up the website to sell something entirely different, or just benefit from advertising revenue. Either way, the squatter is benefiting from the popularity of someone else's name.
- The existence of domains without specific requirements for the registration brought a policy of "first come, first served". This has created many disputes with trade mark owners because, since the 1990s, many speculators have started to register domain names in order to resell them for a much higher price to trade mark owners and new businesses. Problems arose with trade mark owners because of their entitlements to IP rights make them feel ripped off by this new practice called "cybersquatting". Thus, to date, anyone who wishes to register a domain for the first time which is trade marked can do so; whatever problems may arise will have to be faced later.
- The reason as to why there is such increase in such incidences is the growing importance of domain names in this e-commerce trend. Domain names hold an elevated level of importance for the reason that there can be only one user of a

domain name unlike two or more users of a same or similar trademark under the trademark law, for various classes of goods/services or under honest concurrent use. The domain registration system follows the “first come, first served” policy. So, once a person registers a domain name similar to a trademark, any other person using a similar mark is denied registration of another domain name similar to that trademark.

- Under the trademark law a trademark can be used by one or more persons for various classes or goods or services, if such use does not amount to infringement or causing confusion or dilution. But such kind of provision is not applicable in case of domain names. Only one user is allowed to use a particular domain name and any other application for the same domain name is refused. This is the main reason as to why trademark owners prefer to get their trademarks registered as their domain names for business.
- The cases of trademarks and domain names conflict mainly involve issues related to use of the goodwill of a trademark by an infringer in the domain name to divert the customers or potential customers of the owner of the trademark to a website not associated with that trademark, or use of meta-tags resulting in dilution of trademark or unauthorized registration of the trademark as domain name with the intent to extort money or to prevent the owner from using the trademark.

- **GENERIC MARK**

- Generic mark refers to a symbol or word that references a type of product as opposed to a specific product brand. A word or term is said to be generic when its primary meaning to the prospective purchasers is the product or service and not the producer of the product or provider of the service.
- A mark that is generic cannot be protected as a trademark because it describes a whole group of goods or services and cannot distinguish one product within the group from another. Terms which were originally trademarks may over time, be adopted by the public as the common name for the product or service and become generic.

- This is known as genericide. Once the word or term becomes generic, the owner of the trademark or mark cannot exclude others from using it or recover damages for the use. Famous examples of such once protected but now generic marks include aspirin, escalator, thermos and cellophane.
- No one may own trademark rights to a word/term that is a generic name. A word/term is generic if its primary meaning to the prospective purchasers is the product/service and not the producer of the product/provider of the service. Words/Terms that originally are trademarks/marks may, over time, be adopted by the public as the common name for the product/service and become generic. If a word/term becomes generic, the owner of the trademark/mark cannot exclude others from using it or recover damages for the use. Examples of words that have lost trademark protection because they became generic names of products they identified include "aspirin", "thermos" or "cellophane."

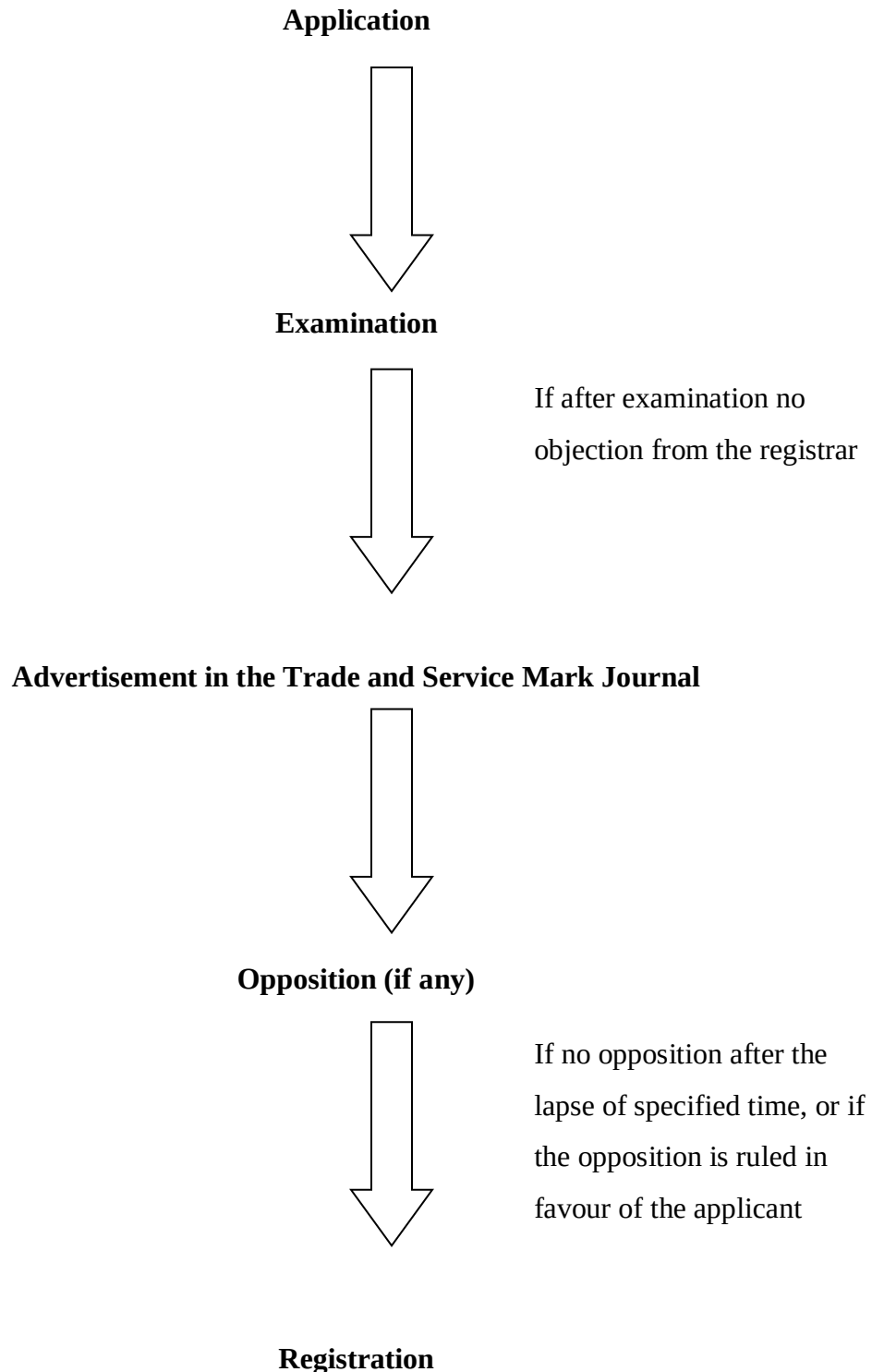
- **TRADEMARK IN INTERNATIONAL LAW**

- There are a number of international conventions and arrangements that give some international recognition to a national trade marks. These are the Paris Convention of 19883, the Madrid Agreement and the Protocol to Madrid Agreement of 1891.
- **Paris Convention of 1883.** The convention recognises priority date for trade mark filed in any country member to the convention. It gives the proprietor 6 months of grace period to file for trade mark in other member countries from the first date when the patent was firstly filed in any member country. The priority date will be the same; i.e. the date in which the fist filing in any member country was filed, in all member countries²⁷.
- **Madrid Agreement of 1891.** It allow anyone established or domiciled in a Madrid Agreement Country, with a trade mark registration in his or her country of establishment or domicile, to file one international application which can be extended to one or more other Madrid Agreement countries. The central international application is filed with WIPO in Geneva, designating to which countries the application is to be extended. WIPO then takes responsibility for

²⁷ See section 22 of Cap 326

passing the application on to each of the designated national registries, where the application proceeds according to the national laws of each country.

Procedures for Registering Trade or Service Mark (see sections 21, 26, 27 and 28)



TOPIC THREE: PATENTS



- **Patent law** is a specific area of law that encompasses the legal regulation, jurisprudence, and enforcement of specific intellectual property rights known as *patent rights*.
- A patent is a government issued right granted to individuals or groups that protects their original inventions from being made, used, or sold by others without their permission for a set period of time.
- While patents can be legally obtained without the use of an attorney, an attorney who specializes in patent law can help ensure that their client's patent is enforceable by law.
- A patent is a property right that is granted by a government. It is the right to exclude others from making, using, or selling the invention described and claimed in the patent for a fixed period of time. Hence the term "limited monopoly" – the grant is limited to the term of the patent, after which the public is free to make and use the invention without obligation to the patent owner.
- According to Lionel Bently²⁸, a patent is a limited monopoly that is granted in return for the disclosure of technical information.
- It may be defined as a set of exclusive rights granted by a state (national government) to an inventor or their assignee for a limited period of time in exchange for a public disclosure of an invention.
- In other words, a **patent** is a right granted for any device, substance, method or process which is new, inventive and useful. A patent is legally enforceable and gives the owner the exclusive right to commercially exploit the invention for the life of the patent. This is not automatic-you must apply for a patent to obtain exclusive rights to exploit your invention.

²⁸ Intellectual Property Law 1st Ed. Pg.

- The law of patents is a legal framework that establishes a patent system which supports and encourages technological innovation and promotes economic development.
- Patent law can be tricky, the key is in the words "right to exclude". The patent does not grant the right to make, use, offer for sale or sell or import the invention but only grants the exclusive nature of the right. Any person is ordinarily free to make, use, offer for sale or sell or import anything he/she pleases, and a grant from the Government is not necessary. The patent only grants the right to exclude others from making, using, offering for sale or selling or importing the invention.
- Law of patents in Tanzania is regulated by the Patents (Registration) Act , the government grants a patent after there is an invention as per s.7 of the Act, the section further explains that the invention may relate to product or process.
- The Patent must be official that is registered under the Patents Office and for an invention to be granted patent it has to be new, has undergone inventive step and capable of industrial use as provided under S. 8 of the Act that states that; “An invention is patentable if it is new, involves an inventive step and is industrially applicable.”
- Because patent law pertains to intellectual property, which is like any other property in that it can be legally sold, exchanged, traded, or abandoned, the finer points of patent law are frequently amended as technology changes.
- This is another reason why an attorney specializing in patent law is of significant use to those seeking a patent.
- A **patent** is a set of exclusive rights granted by a state (national government) to an inventor or their assignee for a limited period of time in exchange for a public disclosure of an invention.
- The term **patent** can also be defined as a right granted to anyone who invents or discovers any new and useful process, machine, article of manufacture, or composition of matter, or any new and useful improvement thereof.
- The additional qualification **utility patent** is used in the United States to distinguish it from other types of patents (e.g. design patents) but should not be confused with utility models granted by other countries. Examples of particular species of patents

for inventions include biological patents, business method patents, chemical patents and software patents.

- Some other types of intellectual property rights are referred to as *patents* in some jurisdictions: industrial design rights are called *design patents* in some jurisdictions (they protect the visual design of objects that are not purely utilitarian), plant breeders' rights are sometimes called *plant patents*, and utility models or *Gebrauchsmuster* are sometimes called *petty patents* or *innovation patents*.
- In patent jargon, an ***invention*** is generally defined as ***a new and inventive solution to a technical problem***. It may relate to the creation of an entirely new device, product, method or process, or may simply be an ***incremental improvement*** to a known product or process. Merely finding something that already exists in nature generally does not qualify as an invention; an adequate amount of human ingenuity, creativity and inventiveness must be involved.²⁹
- An ***invention*** is a new composition, device, or process. Some inventions are based on pre-existing models or ideas and others are radical breakthroughs. Inventions can extend the boundaries of human knowledge or experience.
- According to section 7(1) of the Patents (Registration) Act³⁰ an invention may be defined as ***a solution to a specific problem in the field of technology and may relate to a product or process***.

- **HOW AN APPLICATION FOR PATENT MAY BE MADE**

- The procedure for granting patents, the requirements placed on the patentee, and the extent of the exclusive rights vary widely between countries according to national laws and international agreements.
- A patent is requested by filing a written application at the relevant patent office. The application contains a description of how to make and use the invention that must provide sufficient detail for a person skilled in the art (i.e., the relevant area of technology) to make and use the invention.
- In some countries there are requirements for providing specific information such as the usefulness of the invention, the best mode of performing the invention known

²⁹ <http://www.manishmb.com/understandingpatents.html>

³⁰ [Cap 217 R.E 2002]

to the inventor, or the technical problem or problems solved by the invention. Drawings illustrating the invention may also be provided.

- The application also includes one or more claims, although it is not always a requirement to submit these when first filing the application. The claims set out what the applicant is seeking to protect in that they define what the patent owner has a right to exclude others from making, using, or selling, as the case may be. In other words, the claims define what a patent covers or the "scope of protection."³¹. The specific provisions in Tanzania regarding the application of patent is the provision of section 18, 19, 23, 25, and 28 of the Patents (Registration) Act.³²

- **QUALIFICATION FOR AN INVENTION TO BE PATENTABLE**

- Despite the fact the law seek to protects individuals or groups of persons (commonly known as the inventors) their original inventions from being made, used, or sold by others without their permission for a set period of time, but there are qualification which had to be met in advance:-
- A) an invention may be patentable if it is knew and this condition in the patent law is commonly known as **NOVELTY** as per section 9 of the Patents (Registration) Act³³. Everything made available to the public anywhere in the world by means of written disclosure (including drawings and other illustrations) or by oral disclosure, use, exhibition or other non-written means shall be considered prior art provided that such making available occurred before the date of the filing of the application, of priority is claimed, before the priority date, validly claimed in respect thereof. Novelty requires that the invention be *quantitatively* different from what has been disclosed previously; that is, that the technical information disclosed by the patent is not already available to the public. In this sense, novelty is different from the requirement that to be patentable an invention must have involved an inventive step (or be non-obvious), which is basically a *qualitative* examination to ascertain whether the contribution is creative enough to warrant a monopoly.³⁴

³¹ Ibid

³² CAP 217 R.E 2002]

³³ Ibid

³⁴ Bently, L and Brad, S, Intellectual Property Law

- B) an invention to be accorded protection must also be new and involve an inventive step and should be industrially applicable as per section 8 of the Patent (Registration) Act³⁵. An invention shall be considered as involving an inventive step if, having regard to the prior art, within the meaning of section (9) (2), it would not have been obvious to a person skilled in the art on the date of the filing of the application or, if priority is claimed, on the priority date validly claimed in respect thereof.³⁶ An invention shall be taken to be capable of industrial application if according to its nature, it can be made or used, in the technological sense in any kind of industry, including agriculture, fishery and services.

▪

- **Invention: According** to the Patents Act, an invention is defined as a solution to a specific problem in the field of technology and may relate to a product or process.
- It may also be defined as the discovery or production of some new or improved process or machine that is both useful and is not obvious to persons skilled in the particular field.
- **Non obviousness:** This may simply be defined as a requirement for patent protection. A new invention must produce unexpected or surprising new results that are not anticipated by the existing technology (or prior art). A nonobvious invention is unexpected by a person with ordinary skill in the art -- for example, the telephone technology created by Alexander Graham Bell was not obvious to audio and sound engineers of Bell's day.
- **Thesis statement:** When there is an invention, that provides a significantly better solution to a known problem than the prior/existing solutions, and then it is almost conclusive that there is non-obviousness. In other words, whenever there is an invention in a particular field that provides a solution to a problem, better than the existing solutions, it is then right to assert that it is not obvious that the new invention is derived from the prior inventions.

³⁵ Ibid

³⁶ Section 10 of the Patent (Registration) Act [Cap 217 R.E 2002]

- **Non-obviousness** which may also be termed as inventive step forms one of the general patentability requirements present in most patent laws, according to which an invention should be sufficiently inventive. The expression "inventive step" is predominantly used for instance in Germany, in the United Kingdom and under the European Patent Convention (EPC), while the expression "non-obviousness" is predominantly used in United States patent law. Although the basic principle is roughly the same, the assessment of the inventive step and non-obviousness varies from one country to another.
- **Tanzania position**, section 8 stipulates that an invention is patentable if it is new, involves an inventive step and industrially applicable. From the above mentioned provision, it can be concluded that in order for an invention to be patentable, three main conditions have to be fulfilled:
 - It has to be new.
 - It has to involve an inventive step
 - Finally, it has to be industrially applicable.
- Non obviousness or inventive step is particularly provided for under section 10 of the Patent Act. It states that:
 - “An invention shall be considered as involving an inventive step if having regard to the prior art, within the meaning of section 9(2)(a), it would not have been obvious to a person skilled in the art on the date of the filing of the application or, if priority is claimed, on the priority date validly claimed in respect thereof.”
- From the above provision, it is worth noting that while considering the patentability of an invention, due regard is given to the works of prior art; that if there is a new invention and it involves an inventive step, or in other words provides a better solution to the existing problem, compared to prior inventions, then there can be no claim of obviousness.
- Alternatively, the provision may be constructed to mean that if there is an invention, though similar to the existing or prior solutions to a problem; if such a novel

invention provides a better solution to an existing problem, there is no obviousness, regardless of the similarity between the novel invention and the prior inventions.

- **Tests of determining Non-Obviousness.**

- There are three widely used tests that have been applicable in determining whether or not a particular invention involves an inventive step:

- **The GRAHAM-Test:** The United States Supreme Court applied this test in 1966 in order to make an objective assessment of obviousness in *Graham v. John Deere Co.* case which essentially consists of the following steps:

- 1. The scope and content of the prior art to be determined;
- 2. Differences between the prior art and the claims at issue are to be ascertained;
- 3. The level or ordinary skill in the pertinent art is to be resolved;
- 4. Against this background, the obviousness or non-obviousness of the subject matter is determined;
- 5. Secondary considerations such as commercial success, long felt but unsolved needs, failure of others, etc., might be utilised to give light to the circumstances surrounding the origin of the subject matter sought to be patented

- **The OLIVER-Test:**

- **In** the United Kingdom the Chief Justice Oliver made another statement in the *Windsurfing* case³⁷ in 1985[6] which was composed of the following steps:
- 1. The first is to identify the inventive concept embodied in the patent in suit;
- 2. The court has to assume the mantle of a normally skilled but unimaginative addressee in the art at the priority date and to impute to him what was, at that date common knowledge in the art in question;
- 3. The third step is to identify what, if any, differences exist between the matter cited as being "known or used" and the alleged invention;

³⁷ *Windsurfing International Inc. v Tabur Marine (GB) Ltd.* [1985] RPC 59

- 4. Finally, the court has to ask itself whether, viewed without any knowledge of the alleged invention, these differences constitute steps, which would have been obvious to the skilled man or whether they require any degree of invention
- **The BOCHNOVIC-Test:**
- The Canadian Lawyer and Patent Agent, J. Bochnovic formulated the following test in 1982[3]:
- 1. The first step must involve construing the claims of the Patent at issue;
- 2. The prior art against which each claim defining the alleged invention is to be compared must be established clearly;
- 3. The third consideration involves a comparative analysis of the claimed invention and the prior art to determine at least one difference;
- 4. The background of the field of art: this consideration involves a determination of the background against which the "difference" is to be evaluated. The field of art consideration will necessarily involve a modern-day construction of the "skilled workman in the workshop";
- 5. The evaluation of the difference - inventive step;
- 6. Secondary considerations may also be applied.
- As far as the Tanzanian position is concerned, the graham test is the most suitable and applicable in light to the provisions of sections 8 and 10 of the Patents Act. The conditions stipulated therein are similar and almost identical.

- **QUESTION FOR FURTHER REFLECTION**

- IN THE PATENT JARGON, AN INVENTION MAY GENERALLY BE DEFINED AS A NEW AND INVENTIVE SOLUTION TO A TECHNICAL PROBLEM. CRITICALLY ASSESS THIS STATEMENT.

TOPIC FOUR: COPYRIGHT



- **Copyright** is a branch of intellectual property that protects expression of ideas or information that is substantive and discrete.³⁸ It is a legal concept which is enacted by governments for the purposes of giving the creator of an original work of authorship exclusive rights to it.³⁹
- Copyright is derived from the expression “copier”. Copyright is a right given by the law to creators of literary, dramatic, musical and artistic works and producers of cinematograph film and sound recording.
- In fact it is a bundle of rights including those rights of reproduction, communication to the public, adaptation and translation of the work, there could be slight variation in the composition of the right depending on the work.
- According to Oxford English Dictionary, ‘copyright’ is defined as an exclusive right given by the law for certain term to an author, composer to print, publish and sell copies of his original work.
- **Section 4**⁴⁰, defines copyright to mean the sole legal right to print, publish, perform, film or record a literary work or artistic or musical work. Copyright comprises of the exclusive right of the owners of the work to make copies thereof.
- This copyright is a legal right which acknowledges the natural right of creative individuals. And from this render the infringer liable and criminal offence.
- The fundamental Act of Parliament govern Copyright matter is the Act of Parliament known as Copyright and Neighbouring Act, Cap 218, R.E 2002. The Act provide the mechanism, procedure and other requirements that can be used to enforce the right in the court or before the competent courts.
- It should however be noted for, that, Copyrights actually gives an exclusive right to exploit the expression-such as a book, recording, or film-of an idea rather than the idea itself.⁴¹

³⁸ Donatus N.N. Ndit, *General Principles of Intellectual Property: A Source Book*, Pp. 1

³⁹ Ibid

⁴⁰ Copyright and Neighboring Act, Cap 218, R.E 2002

⁴¹ Philip King, *International Economics and International Economic Policy; Intellectual Property Rights and the Uruguay Round*, McGraw Hill Inc., 1995, Pp. 71

- In Tanzania, the concept of Copyright further extends and applies to the protection of expression of folklore, which includes folk tales, folk songs, folk dances and folk arts.⁴²
- Generally, the notion of Copyright was meant to establish protection towards the economic rights of an author of a particular artistic work; however, such a notion has extended towards the protection of “moral rights” which gives the creator the right to prevent later distortion of his work as it aims to protect the author’s reputation and ensures that an author is always credited for the work.
- The notion of Copyright in Tanzania gained attention, however minimal, during the colonial rule both under the British and German regime where the Codification of Copyright law came only with the Copyright Act of 1911.
- This act was also known as the Imperial Copyright Act, which was applied in colonial territories and was the model for most of the early copyright legislations in Commonwealth countries.⁴³
- Upon the attainment of independence, the Copyright Ordinance Chapter 218 by Act No. 61 of the 1966 was enacted. It is from this Act⁴⁴ which resulted to the enactment of the new Copyright Legislation in 1999 “*The Copyright and Neighbouring Rights Act Cap 218 R.E. 2002*” which is still in operation currently.
- In Tanzania, the concept of protection of artistic works tends to be provided for under the Copyright and Neighbouring Rights Act⁴⁵ which actually protects for the economic and moral rights of the author by providing for such rights and also by elaborating on the preventing measures and protective mechanisms which aim to combat the violation of an author’s right.
- However, despite the enactment of the Copyright and Neighboring Rights Act there still widespread acts of infringement existing, as it is of recent. It is observed that despite the existence of the law imposing restrictions and sanctions, there however still some implications of such laws not being effective in themselves’.

⁴² Donatus N.N. Nditii, *General Principles of Intellectual Property: A Source Book*, Pp. 1

⁴³ Julien Hofmann, *Introducing Copyright: A Plain Language Guide to Copyright in the 21st Century*, Vancouver: Commonwealth of Learning, 2009, Pp. 5

⁴⁴ Copyright Ordinance Chapter 218 by Act No. 61 of the 1966

⁴⁵ Act No. 7 of 1999 [Cap 218 of R.E. 2002]

- The Copyright and Neighbouring Rights Act⁴⁶ provides for remedies such as injunction, delivery and payment of damages, while Part V of the Act⁴⁷ provides for specific sanctions. Such sanctions and remedies provided for by the Act have however proven to be of less efficiency towards combating with acts of infringement, as the sanctions provided for the law actually imposes less burden and causes minimum damage to the infringer⁴⁸; and in this essence therefore, it tends to actually motivate rather than prohibit the acts of infringement.
- The Copyright and Neighboring Rights Act⁴⁹ has also established the Copyright Society of Tanzania (COSOTA)⁵⁰ which aims to promote, administer, regulate and protect authors' rights.
- The provision of Section 47⁵¹, specifically, merely stipulates inter alia that the Copyright Society (COSOTA) shall protect the interests of the artists, without providing for the scope of the protection of such interests.
- Such a provision of the act⁵² further elaborates that the Copyright Society shall be vested with the function of collecting and distributing royalties and remunerations, however, it fails to provide to what extent exactly shall the Copyright Society (COSOTA) ensure that an artist is equitably remunerated for his work.
- **Literary work** means a work of an author which involves any kind of literature themes. However extended to cover adaptation, translation as well as various expressions of thoughts and need to be from the author as his or her creature.
- In the case of **UNIVERSITY OF LONDON vs. UNIVERSITY TUTORIAL PRESS**⁵³, the court held that, "Literary work is the work of an author that involves literature in contents and usually that literary work includes work of pleasure, instruction and information. however Section 5 (2)⁵⁴ is to the effect that any literary

⁴⁶ Cap 218 R.E. 2002

⁴⁷ Cap 218 R.E. 2002

⁴⁸ See the provision of Section 42 of the Copyright and Neighboring Rights Act which provides that, "any person who violates, or causes to be violated, the rights protected under this act shall be (inter alia) liable to a fine not exceeding more than five million shillings or ten million shillings.

⁴⁹ Act No. 7 of 1999 [Cap 218 of R.E. 2002]

⁵⁰ See Section 46 Ibid

⁵¹ The Copyright and Neighboring Rights Act, 1999

⁵² Ibid

⁵³ (1916) 2 Ch. 601

⁵⁴ Copyright and Neighboring Act, Cap 218, R.E 2002

work will involve books, lectures, drawings, painting, computer programmes, maps and other works of the same nature.

- However, other forms which belong to the category of literary work are also protected for instance adaptation or conversion of someone's work into dramatic work by way of performance in the public place or reproduction into a book or magazine.
- Also, translation of computer programmes, computer data base are also protected. For instance in the case of **BLACKWOOD vs. PARASURAMAN**⁵⁵, the court define translation in one language of a book, document or speech in another language that is translation of literary work is itself a literary work and entitled to protection since the author put some speech on it.
- Through the case law the court cemented that even an examination paper, original work in writing whether having literary meaning or not are literary work as shown in the case of **AGARWAL PUBLISHING HOUSE vs. BOARD OF HIGH SCHOOL**⁵⁶.
- Normally, for the work to protected need to be an original work. The term **original work** is defined in the English case of **INTERLOGO vs. TYCO**⁵⁷. Original work is the work which is created from the authors and nothing else, the court proceeded to state that originality of ideas does not have any remedy over the law but the originality of the expression of thought can have legal remedy.
- For instance, to grant a copyright protection in a computer programme is only a party prove the production without consent of the source code of a computer. However, in a computer data base not only relevant collection of information but also his original.⁵⁸
- **Drawings** were also considered as part of copyright and thus entitled for protection as shown in the case of **REYLAND vs. ARMSTRONG**⁵⁹, the court held that

⁵⁵ AIR, 1959, Madrasa, 410

⁵⁶ AIR, 1967, Allahabad, 91

⁵⁷ (1988) 3 WLR 678, 702

⁵⁸ British House Racing Board vs. William Hill (2001) RPC 612 para 28

⁵⁹ (1984) FSR G 91

Drawings in the form of pipe are also objects of a copyright and should be entitled protection.

- The only limitation as to what the copyright will not exist even if reproduced or copied without owner's consent is where the copies are intended to be used for the government or social services, research, criticism, education and with regard to this the copyright will not exist as far as copyright protection is concerned as shown under Section 26⁶⁰.

▪ **CRITERIA FOR PROTECTION**

- **The expression need to be original.** Section 5(1) of The Copyright and Neighbouring Act ⁶¹ provides that *authors of original literary and artistic works shall be entitled to copyright protection for their works under this Act, by the sole fact of the creation of such works.*
- Therefore an author can claim copyright in a work as long as he created it himself even if a thousand people created it before him. Originality here means that the copyright claimant did not copy from someone else that is the work should not be a complete identical copy of another's work though copyright does not take away the right of quoting the copyrighted expression of others in reasonable manner⁶².
- For instance in reproduction the source of its subject matter did not originate with the reproducer but with the original author so as the copyright ability of reproduction to stand the copyist must demonstrate that he has contributed something to the final reproduction as long as the variation between original and copy is more substantial than merely trivial the requirement of originality is satisfied. Originality involves the product of labour, skill and effort as demonstrated in the case of ***Macmillan & Co. Ltd. v. Cooper*** ⁶³.
- The work must be recoded or put into material form⁶⁴. Since the protection in copyright arises automatically however copyright does not subsist in literary, dramatic, and musical works unless and until the works are recorded in writing or

⁶⁰ Copyright and Neighboring Act, Cap 218, R.E 2002

⁶¹ *ibid*

⁶² Prasad, A & Agarwala, A. *op.cit.* p. 104

⁶³ 40 TLR 186

⁶⁴ Bently, L. & Sherman, B. (2004). *Intellectual Property Law*. (2nd ed). Pp.86-88.

otherwise. The fixation and recording of creative ideas carries with it many benefits the most important one is evidential also the reduction of ideas to material form increases the probability that a work may continue to be accessible beyond the death of its author.

- But the recorded material must be original as expressed by Prasad, A & Agarwala, A. (2009)⁶⁵ in p. 103 which reads that copyright arises automatically once an original effort has been started and some aspect of it has been fixed in a tangible medium and has commenced to make sense.
- Also as held by Lord Denning MR in the case of *Ladbroke v William Hill*⁶⁶ that is ideas, thought, fancies in man's brain are not protected, but once reduced to material form are capable of copyright protection. If ideas however original, is nothing more than an idea, and is not put into any form of words or any form of expression such as a picture then there is no such thing as copyright at all.
- Authorship and ownership. Copyright will subsist with the person who creates the work, the author of the work is the person who creates it, a person who writes it a piece of music-its composer Photograph-the photographer, Compilation-the person who gathers or organises the material, selects, orders and arranges-See *Waterlow Publishers Ltd v Rose* [1995] FSR 207 therefore copyright protect author who embodies work in material form through independent skill, judgment or effort.

▪

▪ **MEANING OF IDEAS UNDER COPYRIGHT**

- An idea means a thought or suggestion as to a possible course or action that potentially or actually exists in the mind as a product of mental activity, or an eternally existing pattern of which individual things in any class are imperfect copies.

▪ **PROTECTION UNDER COPYRIGHT LAW**

- “Copyright Law does not protect an ideas it protect the expression of an idea”, this statements is true due to the following arguments.

⁶⁵ Prasad, A & Agarwala, A. (2009). Copyright Law

⁶⁶ 1962

- Copyright Law does not protect ideas because ideas, particularly good ideas are relatively few, are rarely original and are the necessary building blocks for literary, musical and artistic expressions⁶⁷.
- Others are at liberty to use the same material, material in which no one has a copyright is available to all, and everyman can take what is useful from them, improve, add and give his additions and improvements to the public the whole comprising the original work with his additions and improvements.
- The Indian Courts in the case of *Eastern Book Co v Naveen J*⁶⁸ it was observed that *though a copyright protects the right of the authors and their original expression, it also encourages others to build upon the ideas and information conveyed by the other work.*
- Copyright Law tends to protect the expression of an idea involving a degree of originality, due to the fact that, the author of a copyrighted work need to demonstrate that he was the first to create the particular expression embodied in his work since his work need not be novel all that is needed to obtain is originality, that is the work have originated with him, the author cannot have copied it from another.
- The ideas and themes may have appeared in earlier works, indeed much of the expression may have been produced before, but copyright will be available to the second author if his is a work of independent creation. Copyright protects the expression of ideas so that to prevent others from copying or reproducing someone's work.
- Hence the twin concepts of expression and originality are the fundamental building blocks of copyright protection. An original expression is copyrightable provided that the copyright act protects the particular form of expression.

- **General Overview on the History of Copyright Worldwide**

- Upon the advent of the printing press and with wider public literacy at the beginning of the eighteenth century, raising concern among the printers' monopolies on the unregulated copying of books, Charles II of England passed the Licensing Act of

⁶⁷ Prasad, A & Agarwala, A. (2009). Copyright Law. Pp. 103.

⁶⁸ Desai 2001 (1) Del 185 (204)

1662, which established a register of licensed books⁶⁹ and this therefore saw the invent of Copyright, and its rise to existence.

- The concept of Copyright however went on to gain immense recognition upon the enactment of the Statute of Anne of 1709⁷⁰ which was the first real Copyright Act. The Statute (The Statute of Anne) actually gave the publishers rights for a fixed period, after which the copyright expired, such rights are eluded to individual rights of the artist; and further the statute⁷¹ encouraged the economic rights of the author on their purchase of their works.

- **History of Copyright Protection in Tanzania**

- Prior Colonialism, like in most of ancient African societies, less is known as regards to Tanzania, by that time, regarding the concept of Copyright protection due to lack of written/ physical evidence ascertaining the presence of Copyright in Tanzania.
- It is however arguably provided for that, there were existence of some elements of copyright protection among the pre colonial societies in Tanzania, where it is argued that the traditional songs were owned by the chiefs but protected by the clan leader of a clan in which the song is created.
- During the colonial rule, the notion of copyright gained momentum with the introduction of the Copyright Ordinance⁷², as an extension of the (United Kingdom Imperial) Copyright Act, 1911, being regarded as an important landmark⁷³ in that it repealed all the existing copyright laws as outlined in its second schedule, amalgamated the essence of the existing copyright laws into one code, and abrogated common law copyrights from British laws.
- The Copyright Act, 1911 superseded various copyright laws of general application and common law copyright that had authority in the colony prior to that date.⁷⁴

⁶⁹ Patterson, Copyright in Historical Perspective, Vanderbilt University Press, 1968, Pp. 136-137

⁷⁰ The Statute of Anne also known as the British Statute of Anne, called after Queen Anne was a result of Anglo-Scottish union established by two parliaments of England and Scottish. This new parliament changed the laws of both countries and an important early piece of legislation was the Copyright Act of 1709. See Macqueen, Hector L, Charlotte W, Graeme T L, Contemporary Intellectual Property: Law and Policy. Oxford University Press, 2007, Pp. 34.

⁷¹ Statute of Anne of 1709

⁷² Cap 218, August 1, 1924

⁷³ Chege J.W, Copyright Law and Publishing in Kenya, Kenya Literature Bureau, 1978, Pp 98

⁷⁴ Chege J.W, Copyright Law and Publishing in Kenya, Kenya Literature Bureau, 1978, Pp 98

- The Copyright Act⁷⁵ in which at some instance was referred to as the Imperial Copyright Act formed the basis of British Copyright law during colonial rule; such a law⁷⁶ was applied in colonial territories and was the model for most of the early copyright legislation in commonwealth countries.
- Upon the attainment of independence, the Copyright Ordinance⁷⁷ was enacted to repeal and replace the Copyright Act of 1911, providing for automatic protection of copyright.
- The Copyright Ordinance⁷⁸ eventually resulted to the enactment of the new copyright legislation in 1999, “*The Copyright and Neighbouring Rights Act Cap 218 R.E. 2002*” which is still in operation currently.

- **Legal Framework of Copyright Protection**

- **The Constitution**⁷⁹, vide the provision of Article 24⁸⁰ stipulates that, “*Every person is entitled to own property and has a right to the protection of the property, in the accordance with the law.*” In this essence therefore the term “*the property*” as aforementioned tends to actually include all the forms of intellectual property, with the copyright inclusive. The provision of Article 24⁸¹ therefore tends to provide for that the Constitution⁸² as the “Mother Law” or “Supreme Law” of the nation recognizes and adheres towards the notion of protection of copyright and henceforth providing for the entitlement of such protection.

- **Institutional Framework of Copyright Protection**

- **The Copyright Society of Tanzania (COSOTA)**

- Section 46 of the Copyright and Neighbouring Rights Act⁸³ establishes the Copyright Society of Tanzania (COSOTA), with the act further vesting the Copyright Society the following functions:⁸⁴

⁷⁵ 1911

⁷⁶ The Copyright Act of 1911

⁷⁷ Cap 218 by Act No. 61 of the 1966 (came into operation on the 1st of October 1967)

⁷⁸ Cap 218 by Act No. 61 of the 1966

⁷⁹ The Constitution of the United Republic of Tanzania, 1977

⁸⁰ Ibid

⁸¹ Ibid

⁸² Ibid

⁸³ Act No.7 of 1999

⁸⁴ Section 47 Ibid

- To promote and protect the interests of authors, performers, translators, producers of sound recordings, broadcasters, publishers, and in particular, to collect and distribute any royalties or other remunerations accorded to them in respect of their rights provided for in the act.
- To maintain registers of works, productions and association of authors, performers, translators, producers of sound recordings, broadcasters and publishers;
- To search for and identify and publicize the rights of the owners and give evidence of the ownership of these where there is a dispute or an infringement;
- To print, publish, issue or circulate any information, report, periodical, books, pamphlets, leaflet, or any other material relating to copyright and rights of performers, producers of sound recordings and broadcasters;
- And furthermore, the society is vested with the function to advise the Minister on all matters under this act.
- Generally, COSOTA is regarded as the governing institution or body set up by the government of Tanzania under the Ministry of Industry and Trade that vested with supervisory powers upon administering the promotion and protection of artists' rights, as addressed and provided for in the Act.
- Subject to the Schedule of the Copyright and Neighboring Rights Act⁸⁵ COSOTA shall upon fulfilling its responsibility shall work closely and cooperate with the Commission of Culture, the National Arts Council, Film Makers Association, National Museum of Tanzania, the Tanzania Authors Association, the Customs Department, the Attorney General Chambers, the Tanzania Broadcasting Commission, Faculty of Law of the University of Dar es Salaam, Office Dealing with Industrial Property together with the Fair Competition Commission.

▪ **The Court**

- Section 36 of the Copyright and Neighboring Rights Act⁸⁶ establishes a right to any person whose right is in imminent danger of being infringed or have been infringed to institute proceedings in the United Republic of Tanzania for injunction or payment of any damages suffered in consequence of the infringement, such a

⁸⁵ Ibid

⁸⁶ Act No. 7 of 1999

provision of law therefore establishes the role of a court as an institution for protecting artists' rights.

- Section 4 of the Act⁸⁷ establishes the act to mean the District Court established under the Magistrates Court Act, 1984.

- **International Conventions on the Protection of Copyrights**

- Tanzania being a member in the international community is signatory to some of the International Conventions at a global level, by which the protection of copyrights are provided for. It is from some of these agreements through which Tanzanian legal instruments enacts their statutes to conform to its international obligation, for instance the recognition of right of performers; phonogram producers and broadcast organizations are provided and adhered from the Rome Convention.⁸⁸

- **Berne Convention⁸⁹**

- This is the major and first international convention in the area of copyright. It was promulgated and arrived at Berne in the year 1886 and caters for the protection of literary and artistic works.⁹⁰
- Under the Berne Convention, copyrights for creative works do not have to be asserted or declared, as they are automatically in force at creation: an author need not "register" or "apply for" a copyright in countries adhering to the Berne Convention. As the work is "fixed", author is automatically entitled to all copyrights in the work, and to any derivative works unless and until the author explicitly disclaims them, or until the copyright expires.⁹¹

- **The Trade-Related Aspects of Intellectual Property Agreement (TRIPS)**

- The TRIPs Agreement is the culmination of the Marrakesh Agreement that led to the creation of the World Trade Organizations (WTO) in 1994 and hence TRIPs

⁸⁷ Ibid

⁸⁸ For the Protection of Performers, Producers of Phonograms and Broadcasting Organizations signed in 1961

⁸⁹ The Berne Convention for the Protection of Literary and Artistic Works

⁹⁰ See Article 2 (1) of the Convention

⁹¹ "Berne Convention for the Protection of Literary and Artistic Works, Article 5". World Intellectual Property Organization

Agreement form Part 1C of the WTO Agreement which came out of the series of Multilateral Trade Negotiations (MTNs).⁹²

- The TRIPs Agreement sets down minimum standards for many forms of protection of intellectual property (IP) regulation as applied to nationals of other WTO Members. Furthermore, the TRIPs Agreement has introduced intellectual property law into the international trading system for the first time and remains the most comprehensive international agreement on intellectual property to date.
- **The World Intellectual Property Organization Copyright Treaty (WIPO Copyright Treaty)**
 - This is an international treaty on copyright law adopted by the member states of the World Intellectual Property Organization (WIPO) in 1996. The WIPO Copyright Treaty provides additional protections for copyright deemed necessary due to advances in information technology since the formation of previous copyright treaties before it, hence the WIPO treaty actually tends to supplement the Berne convention in the view of technological advancements that have taken place in the area of copyright
- **The international Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organization (Rome Convention)**
 - This convention, popularly known as the Rome Convention was signed at Rome in 1961, providing for international protection for record producers, performers and broadcasters. Producers are protected against unauthorized copying of their recordings and have a right to payment for the broadcast of their recordings, with exceptions.⁹³
 - **Overview of Copyright Infringement in Tanzania**
- Section 9 of the Copyright and Neighboring Rights Act provides for economic rights vested upon authors of original works, where upon such rights being curtailed this shall constitute towards acts of infringement which may be thoroughly defined

⁹² NDITI, D.N.N, General Principles of Intellectual Property Law: A Source Book, p. 9

⁹³ Donatus Nditi, General Principles of Intellectual Property Law: Source Book

as the violation of one/ more of the exclusive rights granted under the copyright law.⁹⁴

- The commission of any facilitating acts stipulated under Section 44 of the Copyright and Neighboring Rights Act amounts to copyright infringement. Henceforth, the provision of Section 44⁹⁵ tends to provide for the scope of copyright infringement in Tanzania.
- There are actually two steps in proving the notion of copyright infringement. First and foremost, the party claiming infringement must prove ownership and existence of copyright. Secondly, the copyright owner must demonstrate that he alleged infringer violated one of his exclusive rights.⁹⁶
- In regards to the concept of infringement, the unlawful alleged act does not necessarily have to be similar/ an exact duplication to qualify for an infringement, but it may rather be established that the alleged infringer had access to the original artistic work and the latter work (the copied work) is substantially similar to the original artistic work.
- Hence in nutshell, it may be observed that, the essence of copyright infringement is established when there is prove of ownership of an original artistic works which are copyrightable; and the infringer of such work had access to the original artistic work, where he latter violated the exclusive rights of the author of the artistic work in which he had access by producing a latter work of his which is substantially similar to the earlier original work; and where such elements tend not to exist or be established then such infringement shall fail.

- **Defenses to Copyright Infringement**

- A defendant in an infringement action may rebut the presumption of copying by a showing of independent creation. This was further asserted for in the case of **Selle V. Gibb**⁹⁷, that it is possible for an author to create a work independently while

⁹⁴ Richard Stim, Intellectual Property: Patents, Trademarks & Copyrights, 2nd Edition, p.175

⁹⁵ Act No. 7 of 1999

⁹⁶ Richard Stim, Intellectual Property: Patents, Trademarks & Copyrights, 2nd Edition, p.175 as read together with the case of Feist V. Rural Telephone 499 U.S 340, 361 (1991)

⁹⁷ 741 F. 2d 896 (7th Cir 1984) as read together with the case of Roworth V. Wilkes 1 Campbell 94, 98 (1807)

bearing similarities to another.⁹⁸ In this case, it was further observed that if access is not established there is no copying, even if there is a striking similarity between the two works.

- Estoppel by Acquiescence is another defence; where acquiescence is referred to the permission accorded by way of silence/ passiveness. The common law doctrine of estoppel by acquiescence is applied when one party gives legal notice to the other party of infringing activities/ claim, and is thereby estopped from challenging it, or making a counterclaim. The doctrine is akin to, and often applied with, the doctrine of estoppel by laches.⁹⁹
- The Doctrine of Fair Use as attributed for under Section 12 of the Copyright and Neighboring Rights Act provides for a defence towards acts of copyright infringement, as it allows copyrighted works to be used by others without seeking and obtaining the copyright holder's permission.
- For the defence of fair use doctrine to be applied, the user must pass a four factor test where; the user must determine its purpose and character for using the copyrighted work, the user must consider the nature of the copyright; thirdly, the user must determine the amount and substantially of the portion used in relation to the copyrighted work as a whole; and fourthly the user must consider and determine the effect of the use upon the potential market value of the copyrighted work.

- **Remedies for Copyright Infringement**

- Subject to Section 36 of the Copyright and Neighboring Rights Act, any person whose rights who are in imminent danger of being infringed or have been infringed or may institute proceedings in the United Republic, for remedies inform of injunctions to prevent/ prohibit the continuation of such infringement or payment of damages suffered in the consequences of the infringement.
- Furthermore, Section 38 of the Copyright and Neighboring Rights Act provides for the remedy of destruction of the copies and even the equipment which were

⁹⁸ See also the defence of merger doctrine which asserts that copyright law will not protect an idea that can be expressed in only one way, in other words, the idea and its expression have become united and inseparable.

⁹⁹Saudin J. Mwakaje, Copyright Law in Tanzania: Some issues you need to know in (2007) 1 JTLS No. 2 at p.15

destined exclusively for the unlawful production of copies be destroyed or may require such copies and equipment be delivered.¹⁰⁰

- In context to the extent of fines paid upon damages as remedies, the provisions of Section 42¹⁰¹ provides for such fines to be of not exceeding more than 5 million or to imprisonment for a term not exceeding 3 years, or to both; or to a fine of not exceeding 10 million shillings or to imprisonment for a term not exceeding 5 years or both.
- The remedial measures as established and stipulated for by the law as prior/ aforementioned tending to curb or protect artistic works from acts of infringement, do hereby provide for minimal protection, as such remedies are observed to facilitate rather than prohibit the act pertaining towards Copyright Infringement.
- **Ways in which the Copyright and Neighbouring Act, Cap 218, R.E 2002**
Protect the literary work of owners in Tanzania.
- Once a man creates any kind of substance, he should enjoy the fruits of its creation. Thus the work of people who settle their minds and being capable or being able to create things others can not, their work should be recognized and be protected. The Secretary of State for Industry while introducing in the House of Lords the copyright law, stated that, “the publishing and record industries would scarcely operate, the entertainment world would be in chaos”.
- Therefore, it is of paramount importance to know the possible ways in which the Copyright Act and Neighbouring Act, Cap 218, R.E 2002, to protect the literary work of owners in Tanzania.
- The first way by which the Act protects the literary work in Tanzania is by providing the duration of author’s rights. According to Section 14 (1), it is provided that economic and moral rights of authors should be protected during the life time of the authors plus fifty years after death, and in case of Joint authorship the protection will shift to the life time plus fifty years of the last surviving author as per Section 14 (2).

¹⁰⁰ Section 39 of the Copyright and Neighboring Rights Act

¹⁰¹ Act No. 7 of 1999

- This provision is very important because the author's work can not be exploited since people who select to administer his property have the right to succeed this right as shown in the case of **AMAR NATH SEHGAL vs. UNION OF INDIA**¹⁰².
- The second protection from the Act is by way of granting the author power for civil action in the court of law. Section 36 (1) (a) (b) empowers any person whose right under the Act has been violated to have power to institute proceedings in the United Republic of Tanzania for;
 - (a) an injunction to prevent the infringement or to prohibit a person the continuation of infringement.
 - (b) Empower a person whose right is infringed under the Act to sue for payment of damages suffered as the consequence of infringement including the profits enjoyed by the infringing person that are attributable to the infringement.
- However, the protection by the way of issuing the right to institute proceedings in the competent court expanded to state that an injured party may bring an action in court for injunctive relief requiring the wrong doer to cease and desist if there is a danger that a wrong doer may repeat of the act of infringement was intentional or result of negligence.
- However, the same Section provides for the injured party to recover the profit gained as a result of infringement, as per Section 37 (1) of the Act, for instance in the case of **ASHDOWN vs. TLEGRAPHY GROUP**¹⁰³ where the court held that, plaintiff may recover damages from what gained by wrong doer from plaintiff work illegally.
- **The third way on which the Act protects the literary work of owners in Tanzania is by way of issuing destruction power to the owners to destroy the work or copies which are unlawfully manufactured or unlawfully distributed or which are intended for unlawful distribution.** The above protection is mainly under Section 38 (1).

¹⁰² 2005 (30) PTC 253, 268

¹⁰³ 2002 RPC 235, 245 (CA)

- Another protection stipulated in the Act, is that for any person to reproduce the literary work of owners, he should require the consent of the owners to do or to reproduce, redistribute, to rent the work, inter alia. Section 9 (1) states that, authors have exclusive right to authorize various acts related to their work. Therefore, if a person do any act in relation to work for his own interest without the owner's consent he will be infringing the right of the literary owner.
- On the other hand, under Section 42(1) (a) and (b), it is provided that for the protection of authors or owners of literary work by way of declaring offences and imposing legal sanctions over the persons who without lawful permission from the owners exercise some acts like reproduction, redistribution and alter the original work.
- The Act proceeds by stating that a fine not exceeding five million shilling or imprisonment for a term not exceeding three years or both the fine and imprisonment.
- Also, the Act provides for a fine not exceeding ten million or imprisonment for the term of five years or both for each subsequent offence if the infringement was on a commercial basis.
- The right to claim authorship is among the protection of the literary work of owners in Tanzania as provided under Section 11 (a) of the Act which states that, the authors have the right to claim authorship of his their works in particular that, their authorship be indicated in connection with any of the act such as reproduction, redistribution and alteration.
- However, the protection expanded by the Act for granting the author the right to object or to seek relief in connection with any of the acts that will injure his reputation from his work by another person. This right is regarded as moral right, as provided for under Section 11 (b) of the Act.
- Another fundamental protection of the literary work of owners in Tanzania is by way of granting the owners or authors power or right to assign their work. Assignment can be stated as a way of having authorization to sell, distribute or redistribute. This power is granted under Section 16 (1) and (2) of the Act. however,

the act go further to give one requirement such as the assignment to be in writing as per Section 16 (2) of the Act and completely signed by assignee.

- Therefore, the above are the main ways in which the Copyright and Neighbouring Act, [Cap 218, R.E 2002] protects the literary work of owners in Tanzania.

- **QUESTION FOR FURTHER REFLECTION**

- How the Copyright and Neighbouring Act, Cap 218, R.E 2002 protect the literary work of owner in Tanzania?
- Copy right law does not protect an idea; it protects the expression of a idea. With relevant examples, discuss the above statement.
- In not more than four printed pages, trace the origin and development of copyright law in England.

*****END*****

WABILLAH TAWFIQ

“ONLY PAINTERS AND LAWYERS CAN CHANGE WHITE TO BLACK”

ENGINEERED

BY

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