

Frequently Asked Questions

Trade/service marks:

What is a trade/service mark?

Is a distinctive sign that serves to distinguish the goods and/or services of one enterprise from those of other enterprises. In other words, a trade or service mark is a sign that individualizes the goods or services of a given enterprise and distinguishes them from the goods or services of its competitor.

What are the types of marks that may be registered?

A mark that may be registered can be in a form of a word, phrase, logo, graphic symbol, slogan, or other device that is used to identify the source of a product and to distinguish a manufacturer's or merchant's products from others.

What is a legal requirement for a mark to be registered?

Distinctiveness - 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 which its proprietor is or may be connected in the course of trade or business from goods or services in the case of which no such connection subsists.

Which marks are prohibited from registration?

- Trade or service marks the use of which would be contrary to law or morality.
- Marks which would be likely to deceive or cause confusion as to the nature, geographical or other origin, manufacturing process, characteristics or suitability for their purpose, of the goods or services concerned.
- Marks which consist solely of the shape, configuration or colour of the goods, or the containers.
- Marks which are identical with, or imitate the armorial 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 authorized by the competent authority of that state or international organisation.
- 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.

- If they are identical with a trade or service mark belonging to a different proprietor and already on the register in respect of the same goods or services or closely related goods or services or that so nearly resembles such a trade or service mark as to be likely to deceive or cause confusion.

Who can apply for a trade/service mark registration?

Any person who or whose proposed registered user uses or proposes to use a trade or service mark shall apply for the registration of the trade or service mark.

Any such applicant, person making request or giving notice, proprietor, or registered user may appoint an agent to act for him in any proceeding or matter before or affecting the Registrar or the Court under the Act and these Regulations by signing and sending to the Registrar or the Court as the case may be, an authority to that effect in the Form TM/SM 1 or in such other written form as the Registrar or the Court may deem sufficient.

How to register a trade/service mark?

An application to the Registrar for the registration of a trade or service mark is made online by creating an account on Online Registration System (provide link to step by step procedure).

What are the benefits of registering a trademark?

1. The registration of a trademark gives the owner the exclusive right to the use of the trademark in relation to the goods or services in respect of which the mark is registered and may seek the relief of infringement in appropriate courts in the country.
2. This is a marketing tool, the mark brands the goods represented by the manufacturer.

What are the fees for registration of a trade/service mark?

- For filing new application fee TZS. 50,000 and for advertisement fee TZS. 15,000.
- For registration (form TM/SM 8) fee TZS. 60,000.
- For Renewal of a Registered mark (Form TM/SM 9) fees TZS. 30,000.
- For Maintenance fee TZS 5,000

- These are standard fees, but can be a little bit higher depending on the acceptance conditions imposed by the Registrar.
- If the Registrar imposes a disclaimer, disclaimer fee is TZS. 10,000.
- If there is a requirement of association then a charge of TZS. 20,000/- for each file associated is paid.

Can a registered trademark be removed from the register?

Yes. It can be removed on application to the Registrar on prescribed form on the ground that the mark is wrongly remaining on the register or is not in use. The Registrar also can *suo moto* issue Notice for removal of a registered trademark.

What to do in case of infringement of a registered mark.

The rights may be enforced by instituting a civil action to the High Court requesting the Court to declare infringement of one's rights. In such a case the Registrar may be called to affirm ownership.

Patents:

What is a Patent?

A Patent is a legal right granted by the Government to an inventor for an invention.

What is an invention?

- An invention is a solution to a specific problem in a field of technology.
- Must be new and useful art, process, machine, manufacture or composition of matter which is not obvious, capable of being used or applied in trade or industry and includes an alleged invention. An invention may be or may relate to a product or a process.

What are the criteria of patenting?

In order to be patentable an invention must be new (novelty), involve an inventive step and industrially applicable.

What are non-patentable inventions?

- Discoveries, scientific and mathematical theories.

- Plant or animals, other than microbiological and the products of such processes.
- Scheme, rules or methods for doing business, performing purely mental acts or playing games.
- Methods for treatment of the human or animal body by surgery or therapy as well as diagnostic methods; but shall not apply to products for use in any of those methods.
- Mere presentation of information.

How to make a patent application?

An application for a patents is made online by creating an account on Online Registration System (provide link to step by step procedure).

What is the fee for filing a patent application?

On request for grant of a patent fee TZS. 12,000 and on grant of a patent (form P. 11) fee TZS. 10,000.

What are the rights conferred by the Patent in protection of an invention?

The rights conferred by a patent include:

- Non-exploitation of the patent in the country by persons other than the Patentee, unless the patentee agrees to such exploitation.
- The right to institute proceedings against any person exploiting the patent in the country without the owner's consent.
- Right to assign and licence.

What are the benefits of protecting an invention?

- Protection of invention benefits the inventor to ensure a fair return on investment through exploitation of the invention by licence, agreement of consent.
- Encourages creativity.
- Injects creativity into the industrial and manufacturing sector, contributes to the expansion of commercial activities, and enhances the export potential of national products.

What is the duration of a patent?

The duration of protecting of a patent is 20 years from the filing date (Initial ten years and two extensions of five years upon request).

Can a patent be invalidated?

Yes. The Court can declare a patent invalid upon successful petition by an interested party.