

Commission on Intellectual Property Rights

Country Case Study for Study 9: Institutional Issues for Developing Countries in IP Policy-Making, Administration and Enforcement

Tanzania

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This report has been commissioned by the IPR Commission as a background paper. The views expressed are those of the author and do not necessarily represent those of the Commission.

CASE STUDY ON
INSTITUTIONAL CAPACITY IN INTELLECTUAL PROPERTY POLICY,
ADMINISTRATION AND ENFORCEMENT

- THE CASE OF TANZANIA -

I. Background

1. The UK Government's Commission on Intellectual Property Rights sought to compile a Case Study on Institutional Capacity in Intellectual Property Policy, Regulation and Administration in East Africa. This is part of the Case Study covering Tanzania, undertaken on behalf of the Commission.
2. The Case Study was guided by a checklist of issues for the Study to cover, which were availed by Commission - implicitly forming the basis of the Terms of Reference for the assignment. In preparing and compiling this report the country team reviewed available literature on the development and application of the national Intellectual Property (IP) Policy, legal and institutional framework in Tanzania, and thereafter made contact and held discussions with senior officials of relevant institutions on the matter.
3. The Study was lead by Prof. Samuel Wangwe, Executive Director of the Economic and Social Research Foundation (ESRF) in Tanzania. The other team members were resident in Kenya, Tanzania and Uganda, respectively, who undertook specific aspects of the assignment in their respective countries.
4. The time set for completion of the Case Study was rather tight, and this, to a large extent, affected the amount of data and information that could be obtained in the time while keeping to the overall timetable set for submission of the report.
5. Finally, through the Economic and Social Research Foundation (ESRF), the author wishes to take this opportunity to thank the UK Government's Commission on Intellectual Property Rights for entrusting the assignment under reference, and hopes the findings indicated in the report will under the circumstances be found useful, and subsequently facilitate the channelling of technical assistance for improving the application and administration of IP in East Africa. Furthermore, the author is grateful to the officials of BRELA, COSOTA and other IP Agencies that were visited, and who, despite the short notice, provided valuable information, which enabled the completion of the study.

II. The Concept of Intellectual Property¹

Intellectual Property (IP), very broadly, means the legal rights which result from intellectual activity in the industrial, scientific, literary and artistic fields. Countries have laws to protect intellectual property for two main reasons. One is to give statutory expression to the moral and economic rights of creators in their creations and such rights of the public in access to those creations. The second is 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.

Generally speaking, intellectual property law aims at safeguarding creators and other producers of intellectual goods and services by granting them certain time-limited rights to control the use made of those productions. Those rights do not apply to the physical object in which the creation may be embodied but instead to the intellectual creation as such, intellectual property is traditionally divided into two branches, "industrial property" and "copyright."

Industrial Property, which includes inventions (patents), trademarks, industrial designs, and geographic indications of source; and

Copyright, which includes literary and artistic works such as novels, poems and plays, films, musical works, artistic works such as drawings, paintings, photographs and sculptures, and architectural designs. Rights related to copyright include those of performing artists in their performances, producers of phonograms in their recordings, and those of broadcasters in their radio and television programs.

The provisions for IP implementation in Tanzania are outlined in the following sections.

III WTO and TRIPS Agreements

1. Background

The Uruguay Round Agreement produced the most fundamental reforms of the world trading system since the formation of GATT in 1947. Trade rules were reformed across the spectrum and brought under the aegis of the newly created World Trade Organization (WTO), now responsible for

¹ Adopted from the WIPO publication *Intellectual Property Reading Material (1998)*

overseeing the envisaged further reforms under the 1994 General Agreements on Tariffs and Trade (GATT 1994), the General Agreements on Trade in Services (GATS), Trade Related Investment Measures (TRIMS), and the Trade Related Intellectual Property Rights Agreements (TRIPS).

The TRIPS agreement covers such intellectual property rights as patents, trademarks, copyrights, industrial designs and geographical indications. It provides for the minimum standards of protection, unlike the World Intellectual Property Organization (WIPO) conventions, which focused on ensuring the implementation of the national legislation. The TRIPS agreement applies the principles of national treatment and most-favoured-national treatment to intellectual property rights. But it goes beyond border issues and thus needs a considerably different architecture than either the GATT or the GATS. Here the Industrial countries have only one year to fully implement the agreement, whilst developing countries have an additional four years to provide basic requirements and a further five years delay in introducing product patents and areas not protected at the date of agreement application. Least industrial countries, Tanzania inclusive, are allowed eleven years before being required to provide full protection of intellectual rights.

In some areas, such as copyright, the agreement broadly applies for the relevant agreement, in this case the Berne Convention. In other areas, the agreement provides for higher standards than were previously conceived and required. In patents, for instance, it extends protection to all areas of technology, including pharmaceuticals, requires a life of at least 20 years for patents, restricts the scope for compulsory licensing of patent rights, and strengthens the projection of patent rights.

In a 1996 Case Study² by Wangwe, *et al*, for UNCTAD, it was noted that the lack of effective intellectual property protection in Tanzania warranted significant improvement, adaptation and enlargement of legal, administrative and enforcement framework as well as human capacity. The costs associated with the implementation of Trade Related Aspects of Intellectual Property Rights (TRIPs) are enormous. The relevant departments did not have fully functioning facilities then.

Although the legal framework and the necessary institutional framework for IPR administration has now been established, other IP implementing agents such as the police department, the customs office and the judiciary need adequate preparation in order to be able to curb infringement of intellectual property rights.

² Prof S. M. Wangwe, Ms Souda Mjasiri & Mr. G. Robi: *Cost of Adapting National IPR Laws and Institutional Arrangements to the TRIPS Agreement – The Case of Tanzania*

Finally, extensive training is required to cause awareness of intellectual property laws, considering that until recently, Intellectual Property law was not formally taught in the country: but now some aspects of IP have been introduced in the Law Curriculum at the University of Dar es Salaam.

2. IPR-Related Legal Instruments

Tanzania is one of the signatories to the WTO and TRIPS agreements. Besides, it has a number of IPR-related legal instruments in the domestic market. The available IPR-related legal instruments in the country are governed by the following acts:

- The Patents Act No. 1 of 1987
- The Trade and Service marks Act No. 12 of 1986
- The Copyright and Neighbouring Rights Act. No. 7 of 1999; and
- The Fair Trade Practices Act of 1994

The first three instruments are operational while the fourth one is yet to be fully operational; under a separate organization (the Commission for Fair Trade Practices) supervised by the Tribunal for Fair Trade Practices.

3. Enforcement of Existing Intellectual Property Laws.

The effectiveness of laws depends on the level of their enforcement. Tanzania's intellectual property laws good reference tools and potential instruments for protecting people's rights. The relevant intellectual property laws are in the books but due to institutional weaknesses, they are not fully and systematically enforced.

4. Public Awareness of Intellectual Property Rights

In general, there is lack of public awareness on the importance of abiding by Intellectual Property laws. The concept of Intellectual Property is a new concept in the country and the people see nothing wrong in copying. There was a tendency to place ownership on physical property and not on the intellectual property. For instance, if one buys a tape, he regards the tape as his property and therefore feels free to make as many copies as possible out of it.

More recently, however, some sections of the society have become aware of IPRs in Tanzania. Performing artists such as musicians and some inventors have of recent been making efforts to impress upon the Government to gear up its law administering and enforcing machinery to protect their works from piracy. Musicians have been in the forefront in this regard. The business community is also aware of the requirements

to adhere to intellectual property rights laws. Unfortunately due to the inadequacies inherent within the legal system in connection with intellectual property rights matters, the business community is openly involved in doing business in pirated intellectual goods. The public at large is not much informed of the laws governing their rights to intellectual property. Although people are involved in the creation of works of art, such as literary works, folklore and other cultural productions and events, in most cases these are done without awareness of laws protecting the rights on such creations.

5. Intervention Measures Are Needed

The Uruguay Round Agreements in cognizance of the importance of safeguarding intellectual property rights has set down rules under TRIPs which will guide trade in all matters pertaining to the transaction in goods and services falling under copyright, patent, industrial design, trade and service marks etc.

Tanzania as a signatory to the Uruguay Round Agreements needs to be prepared for the system to be administered by the World Trade Organisation. This calls for developing a strong and effective IPR legal instruments and machinery, which will ensure adherence to trade related intellectual property rules.

IV. Overview of Legal and Institutional Framework

1. National Legislation for IPR Management in Tanzania ³

A- Industrial Property

A1. Patents

Repeal of Cap 217 and institution of the Patents Act No. 1 of 1987 operationalized through Patents Regulations G.N. 190 of 1994. This changed the patent procedure to be explicit from the previous practice, which was a re-registration in Tanzania, having registered elsewhere, especially UK.

A2. Trade Marks

³ Explanations given here refer to only the Mainland part of the United Republic of Tanzania. Zanzibar, the other part of the Union, administers its own system for IP. Time did not permit inclusion of provisions for Zanzibar.

Cap 394 repealed and replaced by Trade and Service Marks Act 12 of 1986 operationalized through Government Notice No. 40 of 2000.

A3. Industrial Designs

These are governed by:

- The Standards Act of 1975;
- The Tanzania Commission for Science and Technology Act of 1986; and
- The Protection Ordinance of 1936, Cap 219 (which has not changed, but is at the stage of drafting into a new Industrial Designs Legislation for 2002).

B- Copyright and Related Rights

B1. Copyright

This was previously under Cap 61 of 1966 but was repealed, and is now governed by the Copyright and Neighbouring Rights Act No. 7 of 1999 and operationalised through Regulations under G.N. No. 214(A) of June 2000, which introduced other protections including protection of Folklore etc.

B2. Related Rights

As above, under Copyright.

2. Institutional Framework for IP Administration

A. Business Registrations and Licensing Agency (BRELA)

The Tanzania government has embraced market economy policies, as it is a catalyst to sustainable economic development, resulting in competition in the markets for both goods and services. Competition in turn leads to product and systems innovations for better quality products and services in the market and also value for money, all for the benefit of consumers.

However regulation and facilitation are necessary ingredients for a vibrant, sustainable and effective market economy, to ensure participants in the market economy can compete fairly.

In consideration thereof the Tanzania government, as part of its civil service reform, decided to establish Government Executive Agencies, among which is the Business Registrations and Licensing Agency (BRELA).

BRELA⁴ is a Government Executive Agency established under the Government Executive Agencies Act No. 30 of 1997.

It was established on the 28th of October 1999 by Government Notice No. 294 and published on the 8th October 1999. It was officially inaugurated on the 3rd December 1999.

The principal objective of the Agency is to ensure businesses operate in accordance with the laid down regulations and sound commercial principles, including the following:

- To administer companies and business names laws.
- To regulate business by administering business and industrial licensing laws.
- To administer **Intellectual Property** laws.
- To encourage and facilitate local and foreign business investment.
- To stimulate scientific and technological inventiveness and innovation and encourage technology transfer.
- To protect the development of creativity in artistic, literary works, and expression of folklore by protecting such work in conjunction with rights owners.

The structure of BRELA comprises the Chief Executive, four Divisions and one Unit as follows: -

- Commercial laws Division
 - **Intellectual Property** Division
 - Licensing Division, and
 - Business Support Division
- Internal Audit Unit

Previously IP was administered under different sections of the government Ministries and departments. Under Government Executive Agencies Act No. 30 of 1997 the IP functions are now under the Registrar - the Chief Executive of BRELA.

B. THE COPYRIGHT SOCIETY OF TANZANIA (COSOTA)

B1. INTRODUCTION

⁴ Material relating to BRELA has been adopted from the agency's website: <http://www.brela.org> as well as information provided by senior BRELA Officials during the Author's visit to their offices.

The creator of a work, for instance a musician, has the right to allow or to prohibit the use of his works. He can agree on certain conditions that his music or performance be recorded on a compact disc, be performed on a stage, be broadcasted on TV, etc.

An individual is not materially capable of monitoring, all uses of such works for instance to contact every radio or television station to negotiate on licences and remuneration for the use of such works. Similarly, it is impractical for a broadcasting organization to seek specific permission from every single author/creator for the use of copyrighted works. This is because there are thousands of such owners of rights and their created works, hence difficulties in individually trying to approach the other parties for authorization.

A collective management organization is needed to cater for such a problem, whose role is to bridge the gap between the two. This need led to the establishment of the Copyright Society of Tanzania (COSOTA). The following sections present an outline of COSOTA, and its role in copyright law and their related rights in Tanzania, the establishment of such a collective management organization, its role and what it is doing at the moment.

B2. COPYRIGHT AND NEIGHBOURING RIGHTS ACT, NO. 7 OF 1999

The legislature of the United Republic of Tanzania enacted the Copyright and Neighbouring Act, No. 7 of 1999, in April 1999. The President gave his assent in June 1999 and the law became operational from December, 31, 1999.

This is a very up-to-date law on copyright, neighbouring rights and expressions of folklore, it complies with the Berne convention (1886) and the TRIPS Agreement of the World Trade Organization (1994). The aim of this law is:

- (i) To protect the moral and economical interests of authors (creators) relating to their works.
- (ii) To provide protection for expression of folklore.
- (iii) To protect interests of performing artists, producers of cassettes and broadcasting organizations.
- (iv) To provide for civil remedies and criminal sanctions against infringers and pirates.

In an outlook, the law is comprised of 53 sections fitted in seven (7) parts.

- Part one is on preliminary provisions, which is about short title and commencement, the objectives of the law, its application and definitions of some terms used.
- Part two is specifically about copyright law
- Part three is about the protection of expressions of folklore against illicit exploitation.
- Part four is about protection of performers, producers of sound recordings and broadcasting organizations.
- Part five is about sanctions generally on copyright infringers.
- Part six is about measures, remedies and sanctions against abuses in respect of technical means of protection and right management information.
- Part seven is on transitional provisions.

There is also a schedule to the Act, which is basically about the society's composition, and the society here means the one established by S.46 of the Act, as we will see in the next part.

B3. Establishment of the Copyright Society of Tanzania (COSOTA)

Section 46 of the Copyright and Neighbouring Rights Act, No. 7 of 1999 provides for the establishment of the Copyright Society of Tanzania (COSOTA). Hence, this is a body corporate having perpetual succession and a common seal, capable of suing and be sued and of purchasing or otherwise acquiring, holding and alienating movable or immovable property, and subject to the provisions of the said Act, capable of doing or performing all such acts or things as bodies corporate may by law do or perform.

The society assumed its full role from July 2001 after its budget was approved by the Parliament and it employed its core staff in October, 2001.

B4. The Role of the Copyright Society of Tanzania (COSOTA)

The functions of COSOTA are provided for under Section 48 of the Act, and they include:

- (i) Promotion and protection of authors, performers, publishers, translator of works, and broadcasters.

- (ii) Collection and distribution of royalties in respect of uses of the works of its members.
- (iii) The printing, publicising and circulating of information and the rights of its members.
- (iv) Searching to identify and publicise rights of owners, and defend them.
- (v) Maintenance of registers of works, productions and associations of its members.

It is under this Section that COSOTA is empowered legally to determine the minimum rates of royalties to be levied on uses of works and performances of its members. The overall aim of COSOTA is to ensure that the owners of the rights receive adequate remuneration from their efforts/work done.

B5. Prerequisites for Effectiveness

In order for COSOTA to perform its functions well, a sufficient number of the Tanzanian Creators and Performers have to join the society; and assign their rights to it, as per Section 16 of the Act. By this, they will be refusing to be drawn into individual exploitative contracts; hence they will lose nothing other than piracy.

COSOTA therefore endeavours to encourage all the Tanzanian creators and performers to contact the society and register for membership so that it can best perform its role.

C. Key IP Enforcement Authorities:

Industrial Property

- Tribunal – Commercial Courts of law
- Supervisory Ministry – Ministry of Industry and Trade
- Industry Property Office – BRELA

Copyright and Related Rights:

- Tribunal – Commercial Courts of Law
- Supervisory Ministry – Ministry of Industry and Trade
- Copyright Office – BRELA
- Collective Management Societies: Copyright Society of Tanzania (COSOTA)

D. Other Agencies and Institutions Involved in IP

- Judiciary (High court, Commercial Court, District courts - Copyright)
- Police – Apprehension and prosecution
- Customs – imports inspection
- Tanzania Bureau of Standards (TBS) - Consumer protection and identification marks
- Commission for Science and Technology (COSTECH)
- Other R & D Institutions

V. DEFINITIONS AND REGISTRATION PROCEDURES

1. PATENTS

A. Definition

A patent is an exclusive right granted for an invention. In order to get this exclusive right or protection, there must be an invention. An invention is a solution to a technical problem.

An inventor is protected against unauthorized use of his/her invention if that invention is registered and has been granted with a patent. The protection is granted for a limited period. The term is for ten years renewable for two terms of 5 years each on application to the Registrar by the patentee.

B. What kind of protection does a patent offer?

A Patent restricts commercial use, distribution or sale of goods made out of the invention without the consent of the owner. Any person using or exploiting the patented invention without the consent of the owner is infringing these rights and may face a legal action and will be liable to compensate the owner for the wrong acts.

C. Rights of the patent owner

The patent owner has the right to work on his/her invention without fear of his/her invention being infringed or being subjected to unfair competition. He has the right to decide on whom to license, or assign on terms to be agreed upon by both parties.

However, this right is only valid during the lifetime of the patent. When this time expires, the patent falls in the public domain and it can be used by anyone for commercial purposes or any other purpose.

D. How is the patent granted?

The inventor or any person who has a right over an invention files a patent application with the office of the Registrar of Patents

This application should contain a title of the invention, description of the invention, stating the technical field under which the invention falls. The description should be in clear language to be understood by a person with average understanding in the field such that they can work on the invention basing on the description. More elaboration such as drawings should be made and should also state what is claimed in the invention.

E. What is an Invention?

An invention is a solution to a technical problem.

F. What kind of inventions can be protected?

In order for an invention to be protected, it must be:

- Novel, not too obvious, should be new in the field of a practical use.
- Must show inventive steps. This excludes scientific theories, mathematical theories, discoveries, or methods of medical treatment to be patented.

G. Who grants Patents?

Patents are granted by the Government through BRELA (Business Registrations and Licensing Agency).

BRELA in collaboration with the Regional office – African Regional Intellectual Property Organization (ARIPO) and the World Intellectual Property Organization (WIPO) deals with protection of patents at national, Regional and International levels.

H. Importance of the Patents Office

Besides granting protection to inventors, this office is also an information centre where Research and Development Institutions can conduct searches and get information on patents. It also helps to facilitate information on technology transfer and to know which patent has fallen into public domain, so as to allow free access to the knowledge of such inventions. One duty of the patent owner in return for protection is to disclose the information on their invention so that all the technological information can be found in BRELA records. The office of BRELA becomes a databank and this information is used to promote further creativity and innovation.

I. Requirements for Patentability

1. The invention should be new and non-obvious
2. Should be of practical use
3. Should have inventive step

J. Life of a Patent

A patent is protected for twenty years from the date of grant after that it fall in the public domain free to be used by anyone interested.

2. TRADE MARKS

A. Definition

A Trade Mark (or Service Mark) is a distinctive sign; be it a name, signature, drawing or anything, which is used to distinguish similar goods or Services of various manufacturers or those rendering such services.

B. Benefits of Registering a Trade and Service Mark

Trade/Service Marks besides helping the owner of the Services or products to market their products/Services, it helps the consumers to identify, choose and finally purchase a product or Service because of its quality as has been displayed by the Trade/Service Mark over the years.

Registration of a Trade and Service Mark is not a mandatory requirement, provided in using an unregistered mark one does not interfere with the rights of the registered Trade and Service Mark owned by another. Registration of a mark gives exclusives rights of use to the applicant of that Mark, and this exclusive right is extended for the period of seven years and renewable ten years consecutively.

A person using an unregistered mark is most likely going to infringe a registered mark and is at risk of facing legal action which in the final analysis can make him/her bankrupt due to heavy penalties imposed against him/her. So, the best advice to manufacturing and the trading community is to play safe by registering their trade and Service marks in order to avoid those repercussions.

C. How to Register a Trade and Service Mark

The application for registration of a trade mark/service mark is made by filing a form known as TM/S 2 which is obtained from the office of Registrar of Trade/Service Mark or from Trade and Service Mark agents. This is accompanied by TM/S 3 which together with about 8 loose representations of Trade and Service mark are submitted to the Registrar. Upon receipt of the application and upon payment of application fees, examination is conducted, whereby if the Registrar accepts the mark it proceeds to advertise it. If the Registrar receives a no objection within sixty days of advertisement, then he proceeds to issue the certificate of Registration.

D. Post Registration Issues on Trade and Service Marks

- It has to be renewed after seven years, this renewal runs for ten years and then renewed.
- Assignments where the owner of the mark decides to assign it to someone else, this has to be communicated to the Registrar.

- Any change of name or address is to be communicated to the Registrar.
- Mergers, Registered users and any other changes should be communicated to the Registrar.

3. WHAT IS COPYRIGHTS

A. Background

In Tanzania THE COPYRIGHTS AND NEIGHBOURING RIGHTS ACT No.7 of 1999 deals with the protection of these rights and also protects expressions of folklore. The act has come into operation from 31st December 1999.

As outlined under Section III, 2B herein, this Act establishes the COPYRIGHTS SOCIETY OF TANZANIA (COSOTA), a body corporate, which has the duty and powers to:-

- (a) Promote and protect these rights
- (b) Collect and distribute royalties on behalf of its members
- (c) Maintain registers of works, productions and association of its members.
- (d) Search to identify and publicise rights of owners, and defend them
- (e) Print, publish, circulate information and sensitise its members and the general public on these rights.

B. What is covered by Copyright?

The kinds of works covered by copyright include; literary works such as novels, poems, plays, reference works, newspapers, and computer programmes, databases, films, musical compositions, and choreography; artistic works such as paintings, drawings, photographs, and advertisement, maps, and technical drawings.

C. What rights does Copyright Provide?

The creators of original works protected by copyright, and their heirs, have certain basic rights. They hold the exclusive right to use or authorize others to use work on agreed terms. The creator of a work can prohibit or authorize:-

- Its reproduction in various forms, such as printed publication or sound recording.
- Its public performance, as in a play or musical work
- Recordings of it, for example, in the form of compact discs, cassettes, or videotapes
- Its translation into other languages, or its adaptation, such as a novel into a screenplay.

D. Royalties

Royalties are payments made for the use of these works.

E. Term of Protection

These economic rights have a time limit of 50 years after the death of the creator

F. Moral Rights

Copyright protection also includes moral rights i.e. the right to claim authorship of the work and the right to oppose changes to the work that could harm the creator's reputation.

G. Enforcement of Rights

The Creator– or the owner of the copyright in a work can enforce rights administratively and in the courts; by inspection of premises for evidence of production or possession of illegally made pirated-goods related to protected works.

The owners may obtain court orders to stop such activities, as well as seek damages for loss of financial rewards and recognition.

H. What are Neighbouring Rights

A field of rights related to copyright has rapidly developed over the past 50 years. These related rights grew up around copyrighted works, and provide similar, although often more limited and of shorter duration, rights to:

- Performing artists (such as actors and musicians) in their performances
- Producers of sound recording (for example cassette recordings and compact discs) in their recordings
- Broadcasting organizations in their radio and television programs.

I. Why Protect Copyright?

Copyright and Neighbouring rights are essential to human creativity, by giving creators incentives in the form of recognition and fair economic rewards. Under this system of right, creators are assured that their works can be disseminated without fear of unauthorized copying or piracy. This in turn helps increase access to and enhances the enjoyment of culture, knowledge, and entertainment all over the world.

VI. Direct Responses to the Checklist of Issues

Key Issues and Challenges:

1. Lack of Examination Capacity due to:
 - Human Recourses
 - Equipment

Infrastructure

- Publication
- Tradition of Patenting is a cumbersome procedure, thus resulting in low rate of filling
- Few inventions
- Poverty hinders innovators to proceed.

2. Fair Trade Practices

Executive Agency under the Ministry of Industry and Trade. Newly established, with a tribunal, but is not fully operational.

- Industrial Design
- Consumer protection – Tanzania Bureau of Standards (TBS)
- Border measures – Revenue Authority (Customs department)

3. The organised Private Sector and NGO's assist in dissemination of information as well as during the policy formulation stage where their views are sought for incorporation in the final policy drafts.
4. An elaborate legal system exists in Tanzania and the patents filing procedure is well documented. Law schools do not have explicit IP experts, but as the legal practice thrives on the principle of interpretation, practitioners have specialisations.
5. Public policy on IP is made in the conventional way within the government machinery per flow indicated below:
 - Initial draft within government
 - Discussion by stakeholders through workshops
 - Steering Committees comprising representatives from public, private sector and the civil society
 - Ministry of Justice
 - Cabinet
 - Parliament – final approval
6. This is elaborated in Tanzania Development Vision 2025 and the Poverty Reduction Strategy Paper (PRSP).

PART B: Indicators of the IP System

1 Annual Filings & Route

Year	Trade Marks	Service Marks	Patents	Industrial Designs	Copy-rights
1998/99	1080	200	16	-	-
1999/2000	1130	1991	11	-	-
2000/01	642	141	6	-	-

Filing Route

International	-	-	419	-	-
Regional	32	12	320	8	-

2. No backlog due to low volume of filings.
3. No applications for overseas patents
4. Problems are mainly a result of lack of awareness by the general public on legal provisions.
5. Police - prosecute
Customs – seizure: Data not available due to # 5 above, extent is not easy to determine.

On piracy and IPR infringement, it was indicated that this is rather rampant in Tanzania but that enforcement was not very effective - data on the matter would be available at the Police, and Commercial Court where records of prosecutions are kept. The Tanzania Revenue Authority (Customs Department) do have some statistics on the number of seizures of counterfeit goods, but due to the tight time-frame for the study, proper follow-up could not be undertaken.

6. No compulsory licenses have been issued in recent years.

1. Organization chart of BRELA

The structure of BRELA has been indicated under *para 2* of **Section III** above and comprises 4 departments and one unit as outlined below:

- Commercial laws Division

- **Intellectual Property** Division
- Licensing Division
- Business Support Division
 - Internal Audit Unit

2. Human Resources:

- Total No. of staff is 20 of which 11 are Technical, and 9 are Administrative.
- Patent Act + Regulations
- Specialised Training on IP is not available in the Tanzania staff attend this abroad.
- Resource bottlenecks: - lack of specialised training in IP
 - Staff overloaded and cannot afford to specialise
 -
- Stakeholders Meetings held
 - E.g. WCT, WPPT
 - Expected to hold meeting on TRIPS next.

3. Financial Resources

The Agency (BRELA) is just finalising its establishment after restructuring. Financial figures prior to 1998 are not independently available as it was previously a department under the Ministry of Industry and Trade, operating with shared physical and financial resources.

As a Government Executive Agency, it now generates income through charging fees. Appended herein is a summary of **Revenue and Expenditure Statements** for 3 previous years and **Projections for FY 2001/02** as kindly availed by the *Chief Accountant* of BRELA.

The Agency has over the last 3 years received financial support for office modernization from the Government, and WIPO as follows:

Period	Source	Description	Nos.	Value, US\$
1998		Computers	3	4,500

	Government: FILMUP Project	Photocopier: Heavy Duty	1	6,000
2000	WIPO	Computers	5	7,500
		Photocopier: Standard	1	3,000
		Training	various	Not indicated

4. International Participation and Cooperation with other Organizations

BRELA works closely with institutions handling IP internally, as well as ARIPO, WIPO and other international institutions linked to the WTO. Under the regional development blocks, especially SADC and with revival of the East African Community (EAC), a number of institutions in East Africa have taken initiatives to cooperate closely, and rationalize their operations within the region. IP issues especially Rationalization and Harmonization of IP administration and procedures in the region will most likely feature in the agenda, although explicit knowledge about this could not be adduced.

Tanzania is a signatory to various Treaties and has Memberships with respective organizations as follows:

- WIPO Convention, since December 1983.
- Paris Convention (Industrial Property), since June 1963.
- Berne Convention (Literary and Artistic Works), since July 1994.
- PCT (Patents), since September 1999.
- Nice Agreement (International Classification of Goods and Services), since 1999.
- WTO: Member and Signatory to TRIPS Agreement, since January 1995
- ARIPO: Member of ARIPO since October 1983.

BUSINESS REGISTRATION & LICENSING AGENCY (BRELA)

REVENUE AND EXPENDITURE STATEMENTS BY YEARS (Financial Figures in TShs '000)

Nominal Exchange Rate (December '01): US\$ 1 = TShs 900.00

	Fee Description	Year 1998/1999		Year 1999/2000		Year 2000/2001		Projections for 2001/02
		Approved Budget	Actual Receipts	Approved Budget	Actual Receipts	Approved Budget	Actual Receipts	Approved Budget
1	Companies Registration	335,392	321,130	326,360	256,329	330,000	235,891	230,000
2	Business Registration	124,000	22,621	110,280	24,100	25,000	27,526	27,000
3	Patents Registration	1,400	164	1,037	209	1,500	346	500
4	Trade and Service Marks Registration	179,000	151,172	166,575	192,638	215,000	170,395	200,000
5	Industrial Licences Registration	28,868	27,960	32,580	21,538	32,000	28,270	25,000
6	Other Income - <i>Disposal of Motor Vehicle</i>	-	-	-	-	-	14,014	-
	TOTAL REVENUE	668,660	523,047	636,832	494,814	603,500	476,442	482,500
	SUMMARY OF EXPENDITURE	501,495	278,326	448,378	292,735	523,107	360,590	414,300
ITEMISED EXPENDITURE PROJECTIONS FOR 2001/02								
	Application	Personnel Emoluments	Transport & Travelling	Office Expenses	Maintenance of Fixed Assets	Advertising and Promotions	Category Totals	
1	Business Support	152,185	18,588	176,392	12,470	7,073	366,708	
2	Commercial Law	-	940	420	-	1,200	2,560	
3	Intellectual Property	8,592	-	3,066	-	26,250	37,908	
4	Industrial Licensing	900	3,323	2,901	-	-	7,124	
	Totals (TShs '000)	161,677	22,851	182,779	12,470	34,523	414,300	