

EXTENT CORPORATE ADVISORY 2023

Legal Insights and Firm Updates



EXTENT
CORPORATE
ADVISORY

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01

Salutations

Warm greetings! As we approach the conclusion of 2023, Extent Corporate Advisory (ECA) is thrilled to commemorate a noteworthy achievement - our 5th Year Anniversary. This milestone underscores the commitment of our outstanding team and the confidence bestowed in us by our esteemed clients.

In this exclusive newsletter, we aim to keep you, our valued clients, updated on the legal trends shaping 2023. We trust you will find it both informative and engaging.

02

Intellectual Property 2023

INTELLECTUAL PROPERTY IN COURTS

Exploring relevant cases is crucial as they guide us in understanding how intellectual property rights evolve and play a crucial role in promoting innovation and creativity. In this the door of the High Court of United of Tanzania was knocked by various entities for determination of their intellectual property issues to which they seek Court guidance and determination. The cases summarized herein below depicts trademark concern like importance of registering one's trademark, acceptability of a trademark registration that will not likely confuse the public or create deception to ordinary consumers, and how passing off amounts to an infringement.

In the case of **Godrej Consumer Products Ltd VS Target International (T) Ltd (Commercial Case No. 60 of 2019)[2023] TZHCComD 365** the High Court of United Republic of Tanzania in determining the issue of protectability of unregistered mark or mark which has been removed in the register of Trade or Service marks. The Court emphasized that trademark protection and rights are obtainable only through registration, and only the valid registered owner can take legal action against trademark infringement. For further reference you can read the case through <https://tanzlii.org/akn/tz/judgment/tzhccomd/2023/365/eng@2023-11-14>

In the case of **Clover SA (Proprietary) Limited VS Tropicana Products, INC (Civil Appeal No. 102 of 2022)** the High Court of United Republic of Tanzania was approached to determine similarity and confusion of the two mark "TROPIKA and TROPICANA" to which the Deputy Registrar decided that they are not similar and no likelihood of confusion. The Court in determining the aforementioned issue upheld the Deputy Registrar's decision, stating that the appearance evaluation showed distinctions between the "TROPIKA" mark and "TROPICANA" mark. The word TROPIKA was presented graphically with the word "Clover" at the top for the plaintiff, while the respondent's mark contains the logo "TROPICANA" preceded by a small leaf and the word "Essentials." The fonts and designs used were deemed different, making them neither identical nor confusing to an ordinary observer and thus upholding registration of the trademark TROPICANA. For further reference you can read the case through <https://tanzlii.org/akn/tz/judgment/tzhc/2023/21851/eng@2023-10-06>

In the case of **Multichoice (T) Limited VS Alphonse Felix Simbu & 2 Others (Commercial Appeal No. 01 of 2023)[2023] TZHCComD 363** the High Court held that the use of Alphonse Felix Simbu, Failuni Abdi Matanga and Gabriel Gerald Geay's images in Multichoice's advertisements amounted to breach of the right to privacy by passing off the image rights without their consent. This is because Multichoice had testified that they had no authorization to use the photos in their adverts. For further reference you can read the case through <https://tanzlii.org/akn/tz/judgment/tzhccomd/2023/363/eng@2023-10-13>

03

Corporate Updates

I. Tax Ombudsman Office of Tanzania

The Tax Ombudsman Office is a government body established with the sole purpose of addressing tax payers complaints and ensuring fair tax administration by the Tanzania Revenue Authority (TRA) in administration of tax laws. This Office was established in 2022 but was officially launched in December 2023.

The Tax Ombudsman has the power to listen and determine on matters relating to; non-compliance of procedures or mal-administration by TRA in administering tax laws, delay in release of documents or assets seized during the investigations of tax affairs, delay in responding to a complaint submitted by a taxpayer, or non response of

letters or documents sent to TRA. However, do note that the Tax Ombudsman is limited to not determine on the following matters; review of legislation or tax policy, give a tax decision or object to a tax decision, and intervene in the policies or practices of the tax authority, except in cases related to service.

II. The Data Protection Act, 2022.

This law was passed by the President in 2022 but it officially came into operation on the 1st of May 2023. The objectives of this law is to regulate the collection and processing of personal data, ensure that the collection and processing of personal data of a data subject is guided by the principles of the law, protect the privacy of individuals, establish a legal and institutional mechanism to protect personal data, and provide data subjects with rights and remedies to protect their personal data from collection and processing that is not in accordance with the law. Further information on this law can be found on our website.

III. Mining (Corporate Social Responsibility) Regulations, 2023 (the Regulations) vide Government Notice No. 409 of 2023

The regulations mandate mineral right holders to annually formulate a credible corporate social responsibility plan, mutually agreed upon with the relevant local government authorities (LGAs) in the area where mining operations occur. The CSR plan should benefit the community;

40% to be set aside for projects within the community and 60% to be set aside for projects for the district, municipal or city council where the mining operations take place.

Mining rights holders are obligated to submit financial quarterly reports and annual reports to the Commission within fourteen days for the quarterly report and within sixty days for the annual report, detailing the funds used and projects implemented.

IV. Business Licensing Regulations (GN No. 626 of 2023)

These Regulations require business license applications to be made to the local authorities where the business is located and an application is to be made in a prescribed form. Upon application, the license application may be accepted, a fee payment be made and the license be issued; or an application may be rejected and reasons for rejection are to be communicated to the applicant within 14 days from the date the application was made.

Where one loses, destroys, tears or even where a license is not readable the issuing authority may issue another license after payment of a fee. Where one requires information from the license register about a license, they may request for such information by filling out a prescribed form.

V. Business Names (Beneficial Ownership) Regulations, 2023, GN No. 714 of 2023

The primary emphasis of these regulations is on partnerships

rather than companies. Managing partners in a partnership are required to prepare and maintain records of Beneficial Owners, which must be submitted to the Registrar of Companies. In cases where a partner lacks a beneficial interest in the partnership, they are obligated to submit a declaration to the partnership, disclosing the Beneficial Owners. Additionally, individuals not registered as partners but serving as beneficial owners are required to file a declaration confirming this status.

Note that disclosure of these records are to be done within 30 days from the date of registration of the partnership. Failure to comply with the requirements of this Regulation attracts a fine of not less than TZS 1,000,000/= but not more than TZS 5,000,000/=.

Capital Markets and Securities (Investment - Based Crowdfunding) Guidelines Government Notice No. 732 of 2023

This law establishes the legal requirements for crowdfunding activities in Tanzania. It ensures legal compliance and protects the interests of an investor when participating in crowdfunding activities; this is so as the Guidelines provide a structured and regulated environment that reduces risks, enhances transparency as well as ensures legal compliance.

Firm's Spotlights

A reflection of the Firm's achievements and accolades in 2023

ACCOLADES

- i. Our Managing Partner, Ms. Neema Magimba, was shortlisted by the Africa Legal Awards for Partner of the Year (East Africa). This recognition acknowledged Ms. Neema's exceptional leadership, unwavering dedication and outstanding accomplishments as a Partner.



- ii. Extent Corporate Advisory won "Winner Law Firm (Tanzania)" in the 2023 Annual Legal Awards by the Lawyers Global. This award was as a result of providing outstanding services, implementing innovative practices within the legal practice, consistency in delivering excellent results to our clients, as well as commitment to diversity and inclusion within the firm.



- iii. Extent Corporate Advisory was recognized as Outstanding Firm in Eastern Africa in the 2023 Annual Legal Awards by the Lawyers Global. The recognition affirms the firm's notable excellence in the services we provide in the East African Region.

APPOINTMENTS

1. Neema Magimba, our Managing Partner, appointed as a Member of the Anti-Counterfeiting Committee of the International Trademark Association (INTA) for a term beginning in 2024 up to 2025.
2. Nabiry Jumanne, our Partner and Head of Intellectual Property Department, appointed as a Member of the Anti-Counterfeiting Committee of the International Trademark Association (INTA) for a term beginning in 2024 up to 2025.
3. Jeremiah Odinga, our Partner and Head of Litigation and Dispute Resolution Department, appointed as a Member of the Enforcement Committee of the International Trademark Association (INTA) for a term beginning in 2024 up to 2025.
4. Noreen Maghimbi, an Associate in the Trademark Prosecution Department appointed as Member of the Harmonization of Trademark Law and Practice of the International Trademark Association (INTA) for a term beginning in 2024 up to 2025.

EVENTS

- i. The Firm attended the International Trademark Association, a Global Annual Meeting which was held in Singapore, May this year, represented by our Partners Nabiry Jumanne and Jeremiah Odinga.



5. Nabiry Jumanne, our Partner and Head of Intellectual Property Department, appointed as a Committee Member of the Junior Lawyers Professional Department within the Tanganyika Law Society Committee.



ii. The Firm attended the China Trademark Festival which was held in China, June this year represented by its Partner Nabiry Jumanne. This festival embraced discussions on how to protect intellectual property globally.



iii. The Firm attended the 10th Annual Adams & Adams Africa Network Meeting in South Africa, October this year represented by its Partners Neema Magimba and Jeremiah Odinga. This networking meeting surrounded the current trends of intellectual property globally.



- iv. The Firm attended the CANEX Intellectual Property Roundtable in Egypt, November this year represented by its Partner Jeremiah Odinga. The Roundtable held discussions focusing on the various opportunities for financing and investment that arise from Intellectual Property in Africa.



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Remarks

We extend our heartfelt gratitude to our clients, partners and dedicated team members who have played a pivotal role in Extent Corporate Advisory's success. We look forward to our continued partnership in the coming year.



**Happy Holidays From Extent
Corporate Advisory!**



EXTENT
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WE ARE WISHING YOU

Happy Holidays

AND A WONDERFUL YEAR 2024