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A Spotlight on the analysis of the laws governing Intellectual property rights in the Cyber era: The case of trade marks in Tanzania.

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Abstract

This Article contextualize on the analysis of the laws governing intellectual property rights in the cyber era: the case of trade marks in Tanzania Mainland. Specifically, it analyzed the nature and essence of trade mark in cyber era, the effectiveness of the legal framework, and legal challenges affecting trade mark in the cyber era. The Article further stipulate on the substantial statutory foundation for trade mark, although challenges remained in enforcement, accessibility of remedies and institutional capacity. Furthermore, the Article touches on, cyber-related challenges including online infringement, counterfeit goods, social media misuse, anonymous infringers, electronic evidence and cross-border enforcement. Therefore, this Article concludes that the effective trade mark protection requires clear legal rights, accessible remedies, adequate institutional and technical capacity, and stronger coordination between relevant institutions. Henceforth the Article recommends on modernization of the legal framework, strengthening of enforcement capacity, clarification of the domestic legal position concerning the Banjul Protocol, enhanced institutional cooperation, and increased awareness among trade mark owners regarding protection and enforcement in the digital environment.

Key Words: ICT, Trademarks Cyber Era, Trademarks, Cyber Era. legal framework, Judicial systems in Tanzania.

1. INTRODUCTION

1.1 General Overview: Position of Trademarks rights in the Cyber Era in Tanzania.

Trademarks as one component of Intellectual Property Rights (IPRs), which provide legal procedures for protecting inventions, developments, and commercial interests in modern economies. Trademarks serve an important role in identifying the origin of goods and services, preserving business reputation, fostering consumer confidence, and enabling fair competition. The presence of an effective trademark is thus critical for preserving trust in commercial transactions and ensuring that firms and customers suitably protected. As digital transformation in the cyber era continues to influence economic activity, it is necessary to identify acceptable strategies for protecting intellectual property rights in commercial situations. This study focused on the legal framework governing trademark in cyber era in Tanzania's mainland, with a special emphasis on its effectiveness in tackling cyber-related challenges.

The regulation of trade marks in Tanzania Mainland has developed as part of the broader evolution of intellectual property protection aimed at promoting trade, investment, and consumer protection. Intellectual property rights constitute an important component of the contemporary legal and economic system by providing legal protection to creations, innovations, commercial identities and other intangible assets. The development of information and communication technologies (ICTs), electronic commerce, social media and digital platforms has transformed the manner in which trade marks created, promoted, distributed and used. The United Nations Conference on Trade and Development (UNCTAD) has observed that rapid digitalisation is transforming economic and social activities and creating new policy challenges concerning, among other matters, digital platforms, trade and intellectual property.¹

¹ United Nations Conference on Trade and Development (UNCTAD), *Digital Economy Report 2019: Value Creation and*



At the international level, the protection of trade marks developed through international intellectual property instruments administered principally through the World Intellectual Property Organization (WIPO) and the World Trade Organization (WTO). The Paris Convention for the Protection of Industrial Property establishes an important international framework for industrial property, including trade marks, while the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) establishes minimum standards for the protection and enforcement of intellectual property rights among WTO Members.² In Europe, the European Union Intellectual Property Office (EUIPO) has examined the increasing incidence of online intellectual-property infringement and has recognized that infringement on the Internet raises particular legal and enforcement problems requiring civil, administrative and criminal responses.³ The European experience is relevant to Tanzania because it demonstrates the need to consider the relationship between traditional trade mark rights and the technological infrastructure through which contemporary commerce occurs. It also illustrates the importance of mechanisms capable of addressing online infringement rapidly rather than relying exclusively on conventional litigation.

In Africa, intellectual property has increasingly been connected with industrialization, innovation, intra-African trade and digital economic transformation. In East Africa, At the East African Community (EAC) level, digitalisation has increasingly become an important component of regional economic integration. The EAC adopted the EAC E-Commerce Strategy in July 2022, which seeks to facilitate a secure, inclusive and integrated digital marketplace within the region. The strategy was developed following an assessment of e-commerce activities across EAC Partner States and identified regulatory frameworks, trade facilitation, payment systems, skills and other areas requiring regional attention.⁴ The EAC has also recognized intellectual property as part of the broader regional trade framework. The East African context demonstrates that the effectiveness of Tanzania's trade mark laws cannot be examined entirely in isolation from regional digital commerce. The movement of goods, services, businesses and consumers across borders creates an environment in which differences in national intellectual-property laws may affect the practical protection of trade marks.\

In Tanzania Mainland, the principal legislation governing trade and service marks is the Trade and Service Marks Act.⁵ The Act provides the basic legal framework for the registration, protection

and enforcement of trade and service marks. Among other things, it provides for registration and the exclusive rights associated with registered marks. The statutory framework also addresses infringement and provides legal protection against the unauthorised use of marks in circumstances capable of causing deception or confusion.⁶ Section 31 of the *Trade and Service Marks Act* gives the registered proprietor exclusive rights in the registered mark, while section 32 addresses infringement, including the use of identical or confusingly similar signs in the course of trade or business.⁷ Section 30 further provides that although proceedings for infringement of an unregistered mark cannot generally be instituted under the Act, the Act preserves rights of action in respect of passing off.⁸ However, the development of cyberspace presents new challenges for the effectiveness of these traditional provisions. Trade marks may now be used or misused as domain names, social-media usernames, online store names, website identifiers, digital advertisements, hashtags and other electronic commercial identifiers.

Tanzania has also enacted complementary legislation relevant to the digital environment. The Electronic Transactions Act, 2015⁹ provides a legal framework for electronic transactions and electronic evidence, while the Cybercrimes Act, 2015 addresses offences involving computer systems and information and communication technologies. These laws contribute to the broader digital legal environment in which trade mark disputes may arise. Nevertheless, they do not replace the specific protection provided by trade mark legislation. The impact of legislation and increased digitalisation of intellectual-property administration allows users to apply for trade marks and other intellectual-property rights and to access information concerning registered intellectual-property rights.¹⁰ The borderless nature of cyberspace creates legal questions concerning online infringement, domain names, cybersquatting, social-media misuse, electronic evidence, intermediary responsibility, anonymous infringers, cross-border enforcement and the speed of available remedies. Also, the impact in the case of *Lakairo Industries Group Co. Ltd & Others v Kenafrica Industries Ltd & Others*¹¹ provides an important judicial context for examining the relationship between regional intellectual property arrangements and Tanzania's domestic legal framework. The decision is particularly relevant to questions

Capture—Implications for Developing Countries (UN 2019).

² World Intellectual Property Organization (WIPO), 'Trademarks' (WIPO) (explaining that trade marks distinguish goods or services and that registration generally confers an exclusive right).

³ European Union Intellectual Property Office (EUIPO), *Study on Legislative Measures Related to Online IPR Infringements* (EUIPO 2018).

⁴ East African Community, *East African Community E-Commerce Strategy* (adopted 12 July 2022).

⁵ Cap 326 R.E. 2023.

⁶ *Trade and Service Marks Act*, Cap 326 R.E. 2023, ss 30–32. See also BRELA, 'Trade and Service Marks'.

⁷ *Trade and Service Marks Act*, Cap 326 R.E. 2023, ss 31–32

⁸ *ibid* s 30.

⁹ Cap. 442, Revised Edition 2023.

¹⁰ BRELA, 'Watumishi BRELA Wapigwa Msasa Juu ya TEHAMA na Sheria' (10 February 2023), noting training on intellectual property, cyber laws and disputes between trade marks and domain names.

¹¹ *Lakairo Industries Group Co Ltd & Others v Kenafrica Industries Ltd & Others*, Civil Appeal No 593 of 2022 (Court of Appeal of Tanzania).



concerning the recognition, application and enforcement of trade mark rights within the domestic legal system.

However, developments in technology and digital commerce have transformed the environment in which trademarks operate. The increasing use of online platforms, electronic marketplaces, and social media has introduced new dimensions to trade mark protection and enforcement. These developments created the need to assess whether existing legal

2. DEFINITION OF KEY TERMS

2.2.1 Information

It can be understood as anything that has the power to inform, such as the communicated pattern. In the light definition the term information refer to the processed, organized data that has power to inform. It is to be noted that there is no single or certainly defined definition of the word information but the key point in this context is on having that power to inform.¹² According to Oxford Dictionary the word 'Information' is defined to mean facts or details about someone or something that has been communicated (the power to inform).¹³ The power to inform could be on legal, economic, social and whatsoever. For instance, in this study the information must target to inform majority on administration of justice.¹⁴

2.2.2 Communication

The legal profession relies heavily on written and oral communication; communication refers to the exchange of information between people. There is different forms communication verbal, non-verbal, written and visual communication. Law clerks, legal assistants, lawyers, advocate and paralegals all need effective communication skills to serve their client and provide effective legal service. Communication takes many forms in legal perspective such as writing a letter or an email to client or speaking with client face to face or on the phone. It also includes sometimes drafting other kinds of legal documents that communicate information to clients, courts, judges and opposing parties and their legal representatives.¹⁵

2.2.3 Trade Marks

A trade mark as a distinctive sign capable of distinguishing the goods or services of one undertaking from those of other undertakings. It includes words, names, devices, brands, labels,

signatures, letters, numerals, or combinations of such elements, subject to the requirements established by the applicable law.¹⁶ A trade mark performs an important identification function by enabling consumers to distinguish the commercial source of particular goods or services. The significance of trade marks extends beyond their identification function. A trade mark may constitute an important intangible commercial asset because it can embody the goodwill and reputation associated with a business, product, or service. Strong trade mark protection can consequently contribute to consumer confidence, business reputation, and fair competition. This is relevant in the digital economy, where businesses increasingly use websites, social media, online marketplaces, and other electronic platforms to market and distribute goods and services.¹⁷

2.2.4 Trade Mark Infringement

Trade mark infringement generally refers to unauthorized conduct involving a protected trade mark that falls within the scope of prohibited use under the applicable law. The precise elements of infringement depend on the relevant statutory provisions and the circumstances of each case. In Tanzania Mainland, the Trade and Service Marks Act provides the principal statutory framework for determining the rights of registered proprietors and addressing unauthorized use of protected marks.¹⁸

Trade mark infringement may occur through the unauthorized use of an identical or similar mark in relation to goods or services where such use falls within the conduct prohibited by the applicable law. Infringement may cause economic harm to the proprietor by affecting goodwill, reputation, market position, or the ability of consumers to distinguish genuine goods or services from unauthorized products. The legal assessment of infringement is therefore concerned not merely with the physical reproduction of a mark but with the nature of the use, the relevant goods or services, the rights conferred by registration, and the legal consequences prescribed by the applicable law.

2.2.5 Cyber

The cyber refers to the interconnected digital environment created through computer systems, information and communication technologies, telecommunications networks and the Internet. It encompasses the technological infrastructure, digital networks, computer systems, online platforms, electronic communications and virtual environments through which information is created, processed, stored, transmitted and exchanged. In the context of intellectual property, the concept of cyber describes the digital environment in which intellectual-property rights, including trademarks, are increasingly used and exploited. A trade mark that traditionally appeared on physical products, packaging, premises and printed advertisements may now appear on websites, domain names, social-media accounts, online marketplaces, mobile

¹² Capurro (2003). *The concept of Information*, Annual review of information science and technology. Wiley Online library.

¹³ Filbuster, (2019). Oxford English Dictionary, Oxford university press,

<http://oed.com/view/Entry/70179?redirectedFrom=filbuster#eid>. Accessed on 20th August, 2025

¹⁴ Mshana, J. A, (2017) *Effective use of Information and Communication Technology in Judicial Systems: Tanzania and Other Jurisdictions in Comparative Perspectives*, IJA Journal, Vol I, Issue No. I, 2017 pg 63-65

¹⁵ <http://emond.ca>Sample-chapters>CLP2-01>. Accessed on 20th August, 2025

¹⁶ Trade and Service Marks Act, Cap. 326 [R.E. 2023], provisions relating to the definition and registration of trade marks.

¹⁷ Bently, Sherman, Gangjee and Johnson (n 2).

¹⁸ Trade and Service Marks Act, Cap. 326 [R.E. 2023].



applications, digital advertisements and other electronic platforms.¹⁹

The cyber environment has transformed both legitimate commercial use of trademarks and the methods through which infringement may occur. It is closely connected with cyber activities, including electronic commerce, online communication, digital transactions, electronic advertising, social networking, cloud computing and the use of digital platforms. These activities have created new commercial opportunities but have also generated legal challenges such as cybercrime, privacy violations, electronic fraud, domain-name disputes and online intellectual-property infringement.²⁰ Therefore, cyber in the digital and networked environment in which electronic communication, commercial transactions, information exchange and other activities are conducted through computers, telecommunications networks, the Internet and related information and communication technologies. It encompasses the online environments through which marks advertised, displayed, registered, sold, searched, copied and potentially infringed.

2.2.6 Cyber Era

The cyber era refers to the contemporary period characterised by the widespread use of digital technologies, computer systems, the Internet, telecommunications networks and interconnected information systems in conducting social, economic, governmental and commercial activities. It described a transformation from predominantly physical and analogue methods of communication and commerce to an environment in which information, transactions, communication and business activities increasingly conducted electronically.²¹ It is associated with the rapid development of information and communication technologies (ICTs), electronic commerce, social media, cloud computing, mobile technologies, artificial intelligence and digital platforms. The United Nations has recognised digital technologies as an increasingly important component of economic and social development and has emphasised the need for legal and institutional frameworks capable of responding to the opportunities and risks created by digitalisation.²² The cyber era has significant implications because activities that were previously confined to physical territories can now be conducted through interconnected networks across national borders. The information placed on the

Internet reproduced, transmitted and accessed almost instantaneously across territorial boundaries.²³ In the field of intellectual property rights. Traditionally, trade marks were primarily used on physical products, packaging, business premises, newspapers, television and other conventional forms of advertising. However, trade marks are increasingly used through websites, domain names, social-media accounts, online marketplaces, mobile applications, digital advertising and electronic commerce.

In Tanzania, the cyber era has resulted in the development of a broader legal framework addressing electronic and digital activities. The Electronic Transactions Act, 2015 provides legal recognition and regulation of electronic transactions and electronic communications. The Cybercrimes Act, 2015 establishes offences and procedures relating to computer systems and information and communication technologies. The Trade and Service Marks Act, Cap 326 R.E. 2023, which provides protection for registered trade marks and addresses infringement.

2.2.7 Trade Mark in Cyber Era

A trade mark in the cyber era means the use, protection, registration, commercial exploitation and enforcement of a trade mark within the digital and Internet-based environment. Trade mark protection in the cyber era requires consideration not only of the person physically applying a mark to goods but also of persons using the mark in websites, advertisements, online shops and other digital commercial activities. A trade mark in the cyber era refers to a legally protected sign used to distinguish the goods or services of one undertaking from those of another, where such mark is created, displayed, used, promoted, commercialised or infringed through digital technologies, the Internet, electronic commerce, domain names, social-media platforms and other networked digital environments.

3. THE LEGAL AND INSTITUTIONAL FRAMEWORK GOVERNING THE TRADE MARK IN THE CYBER ERA IN TANZANIA

3.1 Operational Mechanism of the Legal framework.

The integration of Cyber Era within the legal system in Tanzania has created a lot of changes especially in the intellectual property arena. However, we should remember that technological adoption must operate within a robust legal framework that safeguards human rights and ensures procedural fairness in the Trademark area. In Tanzania, the legal framework regulating Trademarks reflects a combination of national legislation, procedural laws, institutional strategies, and international and regional instruments.

3.2 National Legal Framework

3.2.1 The Constitution of the United Republic of Tanzania

²³ United Nations, *The Age of Digital Interdependence: Report of the UN Secretary-General's High-Level Panel on Digital Cooperation* (United Nations 2019).

¹⁹ International Telecommunication Union, *Global Cybersecurity Agenda (GCA)* (ITU 2007); United Nations, *The Age of Digital Interdependence: Report of the UN Secretary-General's High-Level Panel on Digital Cooperation* (United Nations 2019).

²⁰ United Nations Conference on Trade and Development, *Digital Economy Report 2019: Value Creation and Capture—Implications for Developing Countries* (United Nations 2019).

²¹ United Nations, *The Age of Digital Interdependence: Report of the UN Secretary-General's High-Level Panel on Digital Cooperation* (United Nations 2019).

²² United Nations, *The Age of Digital Interdependence: Report of the UN Secretary-General's High-Level Panel on Digital Cooperation* (United Nations 2019).



The Constitution provides an important general legal foundation for the protection of property. Article 24 recognizes the right to own property and provides protection against deprivation of property except in accordance with law and subject to the constitutional requirements relating to compulsory acquisition.²⁴ The constitutional protection of property provides the broader legal context within which statutory intellectual property rights operate. Trade mark rights, however, derive their specific content, scope and enforceability principally from legislation such as the Trade and Service Marks Act. Article 24 should therefore not be presented as creating a specific constitutional trade mark right. Its relevance lies in providing the constitutional context within which legislation conferring and protecting proprietary interests, including intellectual property rights, enacted and applied.

3.2.2 Trade and Service Marks Act, Cap 326

The Trade and Service Marks Act,²⁵ constitutes the principal national legislation governing trade and service marks in Tanzania Mainland. The Act provides for matters including the registration of marks, rights arising from registration, opposition, assignment, licensing, infringement and related remedies.²⁶ The principal national legislation is the Trade and Service Marks Act, Cap 326 R.E. 2023 and the Trade and Service Marks Regulations, GN No 40 of 2000. The Act contains the central rules governing registration, ownership, infringement, renewal, assignment, licensing and enforcement of trademarks in Mainland Tanzania. Section 14 provides that the exclusive right to use a trade or service mark is acquired through registration in accordance with the Act. This establishes registration as the principal basis of statutory trademark protection in Tanzania. Section 31 provides that valid registration gives the registered proprietor the exclusive right to use the trade or service mark in relation to the relevant goods, including sale, importation and offers for sale or importation. Section 32 defines infringement of the exclusive right. It covers unauthorised use of an identical or nearly resembling sign where the use is likely to deceive or cause confusion. It also addresses circumstances where use is likely to impair the distinctive character or acquired reputation of a trademark. These provisions can potentially apply to digital advertising and online commercial activity. Nevertheless, the Act does not expressly and comprehensively regulate modern digital practices such as cybersquatting, domain-name abuse, keyword advertising, social-media impersonation, influencer misuse of marks, online marketplace counterfeiting and algorithmically targeted trademark infringement. The Trade and Service Marks Regulations, GN No 40 of 2000 supplement the principal Act. The Regulations establish administrative procedures for trademark registration, including advertisement of applications, opposition, evidence, hearings, renewal, restoration, assignment and registered-user matters. regulation 32 requires accepted applications to be advertised in the

Trade and Service Marks Journal, while regulation 34 provides an opportunity for opposition within the prescribed period.

3.2.3 The Cybercrimes Act, 2015

The Cybercrimes Act, 2015 forms part of Tanzania's broader legal framework for addressing unlawful conduct involving computer systems and electronic communications.²⁷ Its principal purpose is to address cyber-related offences and associated investigative and evidentiary matters. The Act may become relevant where conduct involving a trade mark also constitutes an offence falling within the scope of cybercrime legislation. However, it should not be characterized as a general trade mark statute or as creating a comprehensive offence of online trade mark infringement. The substantive protection of trade marks remains principally governed by the Trade and Service Marks Act.

The Cybercrimes Act may therefore complement the trade mark framework where digital conduct satisfies the elements of a cyber-related offence. Its relevance to this study is consequently the interaction between cybercrime regulation and the protection and enforcement of trade mark rights in digital environments.

3.2.4 Electronic Transactions Act, Cap 442

The Electronic Transactions Act, Cap 442 provides the broader legal framework for electronic transactions and electronic communications. It is relevant to the cyber environment because it addresses legal issues arising from the use of electronic communications and electronic transactions. Its importance to trade mark protection lies principally in the evidentiary and legal environment within which online commercial transactions occur. Where trade mark disputes arise from electronic transactions, the legal recognition and handling of electronic records and communications may become relevant to the establishment and enforcement of rights. The Act is therefore regarded as complementary legislation rather than as a trade mark protection statute

3.2.5 The Electronic and Postal Communications Act

The Electronic and Postal Communications Act, Cap 306 and subsidiary regulations administered by the Tanzania Communications Regulatory Authority (TCRA) regulate aspects of electronic and postal communications and online content. The Electronic and Postal Communications (Online Content) Regulations, 2020, for example, establish licensing requirements and obligations applicable to specified online content service providers.²⁸ The regulatory framework may indirectly affect the environment in which digital trade mark infringement occurs because online services and communications platforms are subject to regulatory obligations. However, TCRA's mandate should not be equated with general trade mark enforcement. TCRA regulates communications and online content within its statutory mandate;

²⁴ Constitution of the United Republic of Tanzania, 1977, art 24.

²⁵ Cap 326 [R.E. 2023].

²⁶ Trade and Service Marks Act, Cap 326 [R.E. 2023].

²⁷ Cybercrimes Act, 2015.

²⁸ Electronic and Postal Communications (Online Content) Regulations, 2020, GN No 538. The Regulations establish licensing requirements and obligations for specified online content service providers.



the determination and enforcement of trade mark rights remain principally matters of trade mark law and the competent enforcement and judicial institutions. Recent amendments to the Online Content Regulations have also introduced additional obligations relating to prohibited content and social media platform mechanisms.²⁹ These developments demonstrate the continuing evolution of Tanzania's digital regulatory framework, although they do not constitute a substitute for specific trade mark enforcement mechanisms.

3.2.6 The Fair Competition Act

The Fair Competition Act, Cap 285 is also relevant to the broader commercial environment in which trade marks operate. The Act addresses competition-related conduct and consumer protection matters and may become relevant where unauthorized use of a mark is associated with misleading conduct, unfair competition or consumer harm.

3.3 THE INSTITUTIONS IN TANZANIA THAT GOVERN TRADEMARKS

The effectiveness of the legal framework depends upon the institutions responsible for registration, administration, investigation, border enforcement and judicial determination of disputes. Trade mark in cyber era in Tanzania is therefore not the responsibility of a single institution. Rather, different institutions perform distinct functions within the broader legal and enforcement system.

3.3.1 Business Registrations and Licensing Agency (BRELA)

BRELA is the principal institution responsible for the administrative registration of trade and service marks in Tanzania Mainland. Its official mandate includes the registration of trade and service marks, and it provides administrative services relating to applications, registration and related matters.³⁰ BRELA maintains the administrative framework through which applicants submit trade mark applications and undertake related procedures. Its published materials include forms for applications for registration, opposition, renewal and other proceedings under the Trade and Service Marks Act.³¹ BRELA therefore occupies a central position in the acquisition and administration of trade mark rights. Its role is principally administrative and regulatory rather than that of a general law-enforcement agency. Enforcement of infringed rights may require other institutions, depending on the nature of the infringement and the remedy sought.

²⁹ Electronic and Postal Communications (Online Content) (Amendment) Regulations, 2025, GN No 57, including amendments concerning internet service providers and social media platform obligations.

³⁰ Business Registrations and Licensing Agency (BRELA), official information on its core functions, including registration of trade and service marks.

³¹ BRELA, official trade mark forms and registration materials, including applications, oppositions and renewals.

3.3.2 Fair Competition Commission

The Fair Competition Commission (FCC) has functions under the competition and merchandise marks framework that are relevant to the protection of consumers and the control of counterfeit or improperly marked goods. Following the 2025 amendments to the Merchandise Marks Act, the border-related trade mark recordation regime provides an additional role for the Chief Inspector of Merchandise Marks in relation to imported goods.³² The FCC therefore has relevance to trade mark protection particularly in the context of counterfeit goods and border enforcement.

3.3.3 Tanzania Communications Regulatory Authority (TCRA)

TCRA is responsible for regulating electronic and postal communications within its statutory mandate. Its functions relevant to the digital environment include regulation of online content service providers and communications services.³³ TCRA may therefore have an indirect role in the environment within which online trade mark infringement occurs. For example, regulatory requirements applicable to online content providers may affect the operation of digital platforms. However, TCRA should not be described as the principal institution for determining trade mark ownership, infringement or trade mark registration. Its relevance to this study is therefore primarily institutional and complementary, particularly where digital trade mark disputes intersect with communications and online content regulation.

3.3.4 Judiciary

The courts constitute an essential component of the institutional framework because they determine disputes concerning the interpretation and enforcement of legal rights. Trade mark disputes may require judicial determination where parties challenge registration decisions, allege infringement, seek remedies or raise questions concerning the interaction between domestic and regional legal instruments. The judiciary is therefore particularly important to the cyber-era dimension of trade mark protection because digital disputes may raise questions concerning jurisdiction, evidence, identification of infringers and the territorial application of trade mark rights.

3.3.5 Ministry Responsible for Industry and Trade

The Ministry responsible for industry and trade provides policy and governmental oversight within the commercial and intellectual property environment. Its role includes contributing to the development and implementation of policies and legislation relating to trade and industry. The Ministry's relevance to the study arises from the policy dimension of trade mark protection, including legislative development, coordination and participation in national and international trade-related processes. However, its role is distinguished from BRELA's administrative role and the

³² Merchandise Marks Act, Cap 85, s 11A, as inserted by the Finance Act, 2025; Merchandise Marks (Recordation) Regulations, 2025.

³³ Electronic and Postal Communications Act, Cap 306; Electronic and Postal Communications (Online Content) Regulations, 2020.



judicial and enforcement functions performed by other competent institutions.

3.4 Regional Legal Framework Governing Trademarks in the Cyber Era.

Regional cooperation is particularly important for trade mark protection because commercial activities increasingly cross-national boundaries. Tanzania participates in the African Regional Intellectual Property Organization (ARIPO), whose regional intellectual property framework includes the Banjul Protocol on Marks. The regional instruments include:

3.4.1 The Lusaka Agreement and ARIPO

The Lusaka Agreement established the African Regional Intellectual Property Organization as a framework for cooperation among participating African states in intellectual property matters. Tanzania became a member of ARIPO in 1983.³⁴ ARIPO provides a platform for cooperation, technical assistance and the development of regional mechanisms for intellectual property protection. For trade marks, the principal ARIPO instrument is the Banjul Protocol on Marks. The Protocol establishes a regional filing and registration system through which an applicant may seek trade mark protection in designated contracting states through an ARIPO application. Tanzania became a contracting state to the Banjul Protocol on 1 September 1999.³⁵

The Banjul system is particularly relevant to the present study because it introduces a regional dimension to the acquisition and protection of trade mark rights. The Protocol nevertheless operates in conjunction with the domestic laws of the designated states. The substantive examination of an application is undertaken in accordance with the applicable national law of the designated state.³⁶ The legal relationship between the Banjul Protocol and Tanzania's domestic trade mark framework is therefore an important issue for judicial and doctrinal analysis. Rather than treating the case as establishing that Tanzania has not adopted the Banjul Protocol, the present study examined the decision in the context of the relationship between regional registration mechanisms and the domestic legal requirements governing recognition and enforcement of trade mark rights.

This distinction is important because Tanzania is demonstrably a contracting state to the Banjul Protocol. The legal issue for this study was therefore not whether Tanzania participates in the Protocol, but rather how rights arising under the regional system operate within Tanzania's domestic legal framework and what implications this has for recognition and enforcement. The regional framework is particularly relevant to the cyber era because online commercial activity frequently crosses national borders. Regional mechanisms may facilitate protection across several jurisdictions,

but their practical effectiveness depends upon the relationship between regional registration systems, domestic law, courts and enforcement institutions.

3.4.2 International Legal Framework Governing Trademarks in the Cyber Era.

International legal instruments provide important standards for trade marks in cyber era. The international instruments include;

3.2.1 The World Intellectual Property Organization Convention, 1967

The Convention Establishing the World Intellectual Property Organization established WIPO as an intergovernmental organization responsible for promoting the protection of intellectual property and cooperation among member states. Tanzania acceded to the WIPO Convention on 1983, and the Convention entered into force for Tanzania on 1983.³⁷ Although the WIPO Convention does not itself establish the substantive rules governing the registration and infringement of trade marks in Tanzania, it provides an important institutional foundation for international cooperation in intellectual property matters. It is therefore relevant to the development and administration of Tanzania's intellectual property system. The WIPO Convention should, however, be distinguished from copyright-specific instruments such as the WIPO Copyright Treaty and the WIPO Performances and Phonograms Treaty. Since the study concerned trade mark protection, those copyright treaties were not central to the analysis and were therefore not examined in detail.

3.2.2 Paris Convention for the Protection of Industrial Property, 1883

The Paris Convention is one of the principal international instruments governing industrial property, including trade marks. Tanzania acceded to the Paris Convention on 1963, and it entered into force for Tanzania on 1963.³⁸ The Convention establishes important principles relevant to trade mark protection, including national treatment, priority rights and the independence of national registrations. National treatment requires contracting states to accord nationals of other contracting states treatment comparable to that accorded to their own nationals in the protection of industrial property.³⁹

The Convention also contains provisions concerning the protection of well-known marks and the prevention of certain forms of unauthorized use and registration.⁴⁰ These principles are relevant to Tanzania because trade mark protection remains substantially territorial even where commercial activities extend across borders.

³⁴ Lusaka Agreement on the Creation of the African Regional Intellectual Property Organization (ARIPO), 1976.

³⁵ ARIPO, Banjul Protocol on Marks, Tanzania contracting-state status, effective from 1 September 1999.

³⁶ Banjul Protocol on Marks, provisions governing examination and protection in designated states.

³⁷ WIPO, WIPO Lex, United Republic of Tanzania – Treaties, recording Tanzania's accession to the WIPO Convention on 30 September 1983 and its entry into force on 30 December 1983.

³⁸ WIPO, WIPO Lex, United Republic of Tanzania – Treaties, recording Tanzania's accession to the Paris Convention on 2 April 1963 and its entry into force on 16 June 1963.

³⁹ Paris Convention for the Protection of Industrial Property (1883), art 2;

⁴⁰ Paris Convention, arts 6bis and 10bis.

However, it establishes a single international trade mark registration that automatically produces protection in every contracting state. Registration and the conditions for protection remain governed substantially by the domestic law of each state.⁴¹ This play a vital role in the digital environment, where a trade mark may be used simultaneously in several jurisdictions through online platforms.

3.2.3 Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS), 1994

The TRIPS Agreement establishes minimum standards for the protection and enforcement of intellectual property rights within the WTO framework. Its trademark provisions are especially relevant to Tanzania's legal framework. Article 15(1) provides that any sign, or combination of signs, capable of distinguishing the goods or services of one undertaking from those of another may constitute a trademark. It specifically identifies words, personal names, letters, numerals, figurative elements and combinations of colours. Article 15(5) requires publication of trademarks and provides an opportunity for cancellation and, where permitted, opposition. This supports transparency in trademark registration.

Article 16(1) grants the owner of a registered trademark the exclusive right to prevent unauthorised third parties from using identical or similar signs in the course of trade where such use would create a likelihood of confusion. This provision has considerable relevance to online infringement because unauthorised use of a trademark can occur through digital advertisements, e-commerce listings, social-media accounts and websites. Article 16(2) and (3) extend protection to well-known marks, including certain circumstances involving dissimilar goods or services where use would indicate a connection with the trademark owner and the owner's interests are likely to be damaged. Article 17 permits limited exceptions to trademark rights, including fair use of descriptive terms, provided legitimate interests of trademark owners and third parties are considered. Article 18 requires an initial registration and each renewal to last at least seven years and permits indefinite renewal. Article 19 regulates cancellation based on non-use. Articles 41–49 establish minimum standards concerning civil and administrative enforcement, while Article 44 requires judicial authorities to have power to order injunctions and Article 45 requires authority to award damages in appropriate infringement cases. Therefore, TRIPS provides the international minimum standards against which Tanzania's domestic trademark legislation can be assessed, particularly concerning registration, exclusive rights, well-known marks, non-use, injunctions, damages and enforcement.

4.0. LEGAL CHALLENGES FACING TRADE MARKS IN THE CYBER ERA IN TANZANIA MAINLAND.

Based on the above cited information it's clear that despite some development in the Intellectual Property Area in

Tanzanian there has been a lot of challenge especially in the process whereby Cyber Era becomes a major point in controlling Trademarks and hence executing legal matters becomes a problem⁴².

The challenge that Tanzania faces currently in the Trade mark area especially in this Cyber era are as follows;

4.0.1 Lack of Express Regulation of Online Trade Mark

The traditional trade mark framework was principally designed around conventional commercial use rather than the complex forms of online use that characterize the cyber era. The *Trade and Service Marks Act* establishes rights and infringement standards, but online infringement may take numerous forms, including the unauthorized use of a trade mark in websites, domain names, social-media accounts, online marketplaces, sponsored advertising, mobile applications, metadata and other digital content. This creates difficulties in determining whether a particular digital activity constitutes use of a trade mark in the legally relevant sense and whether the use is sufficiently connected to goods or services to constitute infringement. Consequently, the effectiveness of the traditional statutory framework may be reduced where an infringer operates entirely through digital channels.⁴³ The challenge is therefore not necessarily the absence of trade mark protection, but the absence of sufficiently detailed rules specifically explaining how established trade mark rights operate in digital environments.

4.0.2 Conflict between Territorial Trade Mark Rights and the Borderless Nature of the Internet

Trade mark protection is substantially territorial, whereas the Internet is inherently global. A trade mark registered in Tanzania principally establishes rights within the relevant legal jurisdiction, while an infringing website or social-media account can be operated from another country and made immediately accessible to Tanzanian consumers. This creates questions concerning jurisdiction, applicable law, service of proceedings, identification of foreign infringers and enforcement of Tanzanian judgments abroad. A Tanzanian trade mark proprietor may therefore possess a valid domestic right but still encounter practical legal difficulties where the infringer, website operator, platform or domain registrar is located outside Tanzania. The domain names operate through a global addressing system and may conflict with territorially based intellectual-property rights. WIPO recognises that domain names have become business identifiers and that disputes frequently arise between domain-name registrants and trade mark owners.

4.0.3 Cybersquatting and Trade Mark Domain Name Conflicts

Cybersquatting as one of the most significant challenges facing trade mark owners in the digital environment. It occurs where a

⁴² Mshana, J. A, (2017) Effective use of Information and Communication Technology in Judicial Systems: Tanzania and Other Jurisdictions in Comparative Perspectives, IJA Journal, Vol I, Issue No. I, 2017 pg 23-33, ISSN 2467-4680

⁴³ Respondent: anonymous advocates in Mwanza on September 2026.

⁴¹ Paris Convention, arts 2 and 6.



person registers a domain name incorporating or confusingly resembling another person's trade mark, often with the intention of exploiting the goodwill associated with the mark.⁴⁴ The problem arises because a domain name is not merely a technical Internet address; it can also function as a commercial identifier. The issue is particularly relevant to Tanzania because TZ domain-name disputes are subject to a specific dispute-resolution framework administered through WIPO's domain-name dispute-resolution services. WIPO identifies the TZ policy as a variation of the UDRP and states that Tanzanian courts constitute the relevant mutual jurisdiction.⁴⁵

However, the existence of a domain-name dispute mechanism does not eliminate the broader legal challenge. A domain-name proceeding is concerned principally with abusive registration or use of a domain name, whereas a conventional trade mark dispute may involve broader questions of infringement, passing off, damages, consumer confusion and other remedies.⁴⁶ Thus, the coexistence of trade mark law and domain-name dispute mechanisms can create questions concerning jurisdiction, remedies and the relationship between administrative domain-name proceedings and court proceedings.

4.0.4 Difficulties in Regulating Social-Media Trade Mark Infringement

Social-media platforms have created new opportunities for trade mark misuse. An infringer may use another person's trade mark as a Facebook page name, Instagram account name, username, hashtag, advertisement, profile identifier or online shop name. The challenge is that conventional trade mark legislation does not necessarily provide detailed rules concerning every form of social-media use.⁴⁷ Determining whether a particular username constitutes trade mark infringement may require consideration of whether the mark is being used commercially, whether consumers are likely to be confused and whether the use falls within an exception or legitimate descriptive use. The speed with which social-media content can be created, copied and redistributed also creates a significant enforcement problem.⁴⁸ By the time a proprietor commences conventional litigation, the infringing material may already have reached thousands or millions of users.

4.0.5 Limited Statutory Regulation of Online Intermediaries and Platforms

⁴⁴ Respondent: anonymous administrative officer in Mwanza on September 2026.

⁴⁵ Respondent: anonymous trade mark owner in Mwanza on September 2026.

⁴⁶ Mshana, J. A, (2017) Effective use of Information and Communication Technology in Judicial Systems: Tanzania and Other Jurisdictions in Comparative Perspectives, IJA Journal, Vol I, Issue No. I, 2017 pg 23-33, ISSN 2467-4680

⁴⁷ Respondent: anonymous legal practitioner in Mwanza on September 2026.

⁴⁸ Respondent: anonymous trade mark representative in Mwanza on September 2026.

Online trade mark infringement may involve social-media companies, Internet service providers, online marketplaces, hosting companies, search engines, domain registrars and other intermediaries. The *Trade and Service Marks Act* does not constitute a comprehensive notice-and-takedown regime specifically addressing the obligations of such intermediaries in trade mark disputes.⁴⁹ This can create uncertainty concerning when an online platform must remove allegedly infringing material, whether the platform itself may be liable, what evidence a trade mark proprietor must provide, how quickly complaints should be investigated, whether the alleged infringer must be notified and how disputed content should be restored where infringement is not established.⁵⁰ The absence of a detailed intermediary framework may consequently make enforcement slower and more dependent upon the internal policies of individual platforms.

4.0.6 Difficulties Concerning Electronic Evidence

Digital trade mark disputes frequently depend upon electronic evidence, including screenshots, emails, website records, social-media posts, domain registration information, electronic advertisements, transaction records, server information and digital communications.⁵¹ Tanzania has legislation recognising electronic transactions and providing for the use and admissibility of electronic evidence. The Electronic Transactions Act, 2015, now reflected in Chapter 442, expressly addresses legal recognition of electronic transactions and the admissibility of electronic evidence.

The existence of statutory recognition of electronic evidence does not remove all evidentiary difficulties. Trade mark owners may still have to establish the authenticity, integrity, source, date and continuity of digital material. Online content can also be deleted, altered or moved to another jurisdiction. Therefore, the challenge lies in ensuring that the general rules concerning electronic evidence operate effectively in the specific context of rapidly changing digital trade mark infringement.

4.0.7 Difficulty of Identifying Anonymous or Pseudonymous Infringers

The Internet permits individuals to operate websites, social-media accounts and online businesses under pseudonyms or through intermediaries. A person infringing a Tanzanian trade mark may therefore be difficult to identify. This presents a significant enforcement problem because a proprietor normally needs to establish the identity and location of the alleged infringer before effective judicial proceedings can be undertaken.⁵² Obtaining information from platforms, domain registrars or service providers may also involve procedural and jurisdictional complications. The problem becomes more serious where the infringer deliberately

⁴⁹ The Electronic Transaction Act 2015.

⁵⁰ Ibid 2015.

⁵¹ Ibid 2015

⁵² Mshana, J. A, (2017) Effective use of Information and Communication Technology in Judicial Systems: Tanzania and Other Jurisdictions in Comparative Perspectives, IJA Journal, Vol I, Issue No. I, 2017 pg 23-33, ISSN 2467-4680

conceals his or her identity or operates through several online accounts and foreign service providers.⁵³

4.0.8 Cross Border Enforcement and Jurisdictional Difficulties

Online trade mark infringement may involve several jurisdictions simultaneously. For example, a Tanzanian company may own a registered trade mark in Tanzania, the infringing website may be hosted in another country, the domain may be registered through a foreign registrar and the infringing products may be supplied from a fourth jurisdiction. WIPO's development of domain-name dispute-resolution mechanisms demonstrates the international character of this problem.⁵⁴ The .TZ system itself provides a dispute-resolution mechanism involving WIPO, illustrating that domain-name disputes cannot always be addressed solely through ordinary domestic litigation. The decision in *Lakairo Industries Group Co Ltd & Others v Kenafrica Industries Ltd & Others* provided judicial material for examining the relationship between the Banjul Protocol and Tanzania's domestic trade mark framework.⁵⁵ The case was therefore considered in detail in the subsequent analysis of the legal implications of Tanzania's participation in the Banjul Protocol.

4.0.9 Tension between Registration Based Protection and Unregistered Digital Goodwill

The Tanzanian system places substantial importance on registration. Digital businesses, however, can establish substantial goodwill through websites, social-media accounts and online sales before formally registering their trade marks. This creates a legal vulnerability for businesses that begin operating online without obtaining trade mark registration.⁵⁶ The distinction is important because the statutory framework recognises registered trade mark rights while preserving certain remedies associated with unregistered marks. Accordingly, businesses operating primarily online may accumulate valuable digital goodwill while lacking the same certainty and strength of protection enjoyed by registered proprietors. This creates an important legal challenge for small and emerging digital businesses.⁵⁷

4.0.10 Difficulty in Controlling Online Counterfeiting

⁵³ Respondent: anonymous legal practitioner in Mwanza on September 2026.

⁵⁴ Respondent: anonymous advocates in Mwanza on September 2026.

⁵⁵ *Lakairo Industries Group Co Ltd & Others v Kenafrica Industries Ltd & Others*, Civil Appeal No 593 of 2022, Court of Appeal of Tanzania.

⁵⁶ Mshana, J. A, (2017) Effective use of Information and Communication Technology in Judicial Systems: Tanzania and Other Jurisdictions in Comparative Perspectives, IJA Journal, Vol I, Issue No. I, 2017 pg 23-33, ISSN 2467-4680

⁵⁷ . Mshana, J. A, (2017) Effective use of Information and Communication Technology in Judicial Systems: Tanzania and Other Jurisdictions in Comparative Perspectives, IJA Journal, Vol I, Issue No. I, 2017 pg 23-33, ISSN 2467-4680

E-commerce platforms and social-media marketplaces have made it easier for counterfeit goods to be advertised and sold using legitimate trade marks. An infringer may reproduce the mark on a product, use the mark in an online advertisement and distribute the product through an online marketplace. The challenge is that the infringement can occur through several legally distinct activities: production, advertising, offering for sale, distribution, use of the mark and operation of an online storefront.⁵⁸ The effective protection requires coordination between trade mark law, consumer protection, customs enforcement, criminal law and cybercrime regulation. Trade mark litigation alone may not adequately address the entire digital counterfeiting chain.

4.0.11 Lack of Harmonisation of Laws

The legal challenge is therefore to ensure appropriate coordination between these areas without treating every trade mark dispute as a criminal cybercrime matter.⁵⁹ The trade mark in cyber era laws not harmonised as from trade mark and service, cyber crime and electronic transactions laws. Hence make difficult to control trade mark in cyber era.

4.0.12 Inadequate Speed of Conventional Enforcement Remedies

The Internet operates at a speed that is fundamentally different from conventional commercial activity. An infringing advertisement can be created and removed within hours; counterfeit products can be advertised simultaneously to consumers across several platforms; and a domain name can redirect consumers immediately.⁶⁰ Conventional court proceedings may nevertheless take considerably longer.⁶¹ This creates a potential mismatch between the speed of digital infringement and the speed of legal remedies. For trade mark protection to be effective in cyberspace, legal mechanisms must be capable of providing timely interim injunctions, preservation of evidence and, where appropriate, removal or disabling of infringing digital material.

4.0.13 Technological Developments Outpacing Existing Legislation

Technology develops faster than conventional legislative processes. New forms of online commercial activity can emerge before legislation has been amended to address them expressly. This challenge is becoming more significant with artificial intelligence, automated advertising, algorithmic recommendation systems, virtual marketplaces, influencers, metaverse-related commerce and increasingly sophisticated methods of creating

⁵⁸ Respondent: anonymous administrative officer in Mwanza on September 2026.

⁵⁹ Respondent: anonymous legal practitioner in Mwanza on September 2026.

⁶⁰ Respondent: anonymous trade mark representative in Mwanza on September 2026.

⁶¹ Respondent: anonymous legal officer in Mwanza on September 2026.



confusingly similar digital identities.⁶² This creates a continuing legislative challenge: legislation must provide sufficiently certain rules to protect trade mark proprietors while remaining technologically neutral enough to accommodate future forms of digital commerce.

4.0.14 Institutional and Technical Capacity Challenges

Effective trade mark protection in cyberspace does not depend solely on legislation. It also requires institutional capacity to identify, investigate and respond to online infringement. Relevant institutions may include the Business Registrations and Licensing Agency (BRELA), courts, police and cybercrime investigators, customs authorities, the Tanzania Communications Regulatory Authority, domain-name administrators and other relevant public authorities.⁶³ Digital trade mark disputes may require specialised knowledge concerning domain names, website architecture, social-media systems, electronic evidence and online commercial practices. Insufficient coordination or technical expertise may therefore reduce the practical effectiveness of otherwise adequate legal provisions.

4.5.15 Difficulty of Balancing Trade Mark Protection with Legitimate Online Expression

The Internet facilitates criticism, comparative advertising, commentary, consumer reviews, parody and other forms of communication. A legal regime that protects trade marks too broadly could potentially interfere with legitimate non-infringing expression. Conversely, a regime that provides insufficient protection may permit commercial actors to exploit another person's reputation. The challenge is therefore to maintain an appropriate legal distinction between commercial misuse of a trade mark and legitimate non-infringing online expression. This issue is particularly important in social-media environments where commercial and non-commercial communication frequently occur on the same platforms.

5.0 The Recommendation in line with the process of Using Trademarks in the Cyber Era in Tanzania

The Article stipulates well that the effectiveness of the trade mark protection in Tanzania cyber era is mostly depending on the existence of statutory rights but also on whether those rights can be enforced against rapidly changing forms of digital conduct. Furthermore it is clear that the major areas requiring legal attention are digital infringement, cybersquatting, intermediary responsibility, electronic evidence, cross-border enforcement, rapid remedies and technological adaptation of the statutory framework.

Based on the above conclusion, recommendations are provided so as to curb the existence of a gap;

5.1 To the Legislature

To consider reviewing and, where necessary, updating the legal framework governing trade mark protection to respond more effectively to digital commerce and cyber-related infringement. The review should consider issues such as unauthorized online use of trade marks, infringement through social media, online marketplaces, digital advertising, electronic evidence and other forms of technologically mediated infringement.

5.2 To the Government

- To strengthen mechanisms for enforcing trade mark rights and accessing remedies. Measures should be taken to make enforcement procedures more accessible, efficient and responsive. Particular attention should be given to reducing unnecessary procedural delays and ensuring that rights holders can obtain appropriate remedies against infringement.
- Furthermore, to enhance their technical capacity to investigate and respond to digital trade mark infringement. This should include training in digital investigation, identification of online infringers, preservation of electronic evidence, online monitoring and other relevant technological skills. Technical capacity is particularly important because digital infringement may occur through anonymous accounts, rapidly changing online content and platforms operating across different jurisdictions.
- To strengthen coordination among institutions involved in trade mark administration, enforcement, border control, communications regulation, law enforcement and judicial processes. A coordinated approach would facilitate information sharing, identification of infringers, investigation of online counterfeiting and preservation of evidence. Such cooperation would also reduce institutional fragmentation when dealing with complex digital infringement cases.

5.3 To the Judiciary

- The Judiciary should create a law or statutory interpretation system that may allow trademarks which are registered in a foreign country to be recognized and registered in Tanzania. This will open a door for foreigners to invest heavily in Tanzania since they will be protected.

5.4 To the community

- Awareness programmes should be strengthened to educate trade mark owners and businesses about registration, enforcement and protection of trade marks in the digital environment. Rights holders should be informed about how to identify online infringement, preserve relevant electronic evidence and use available legal remedies. Such programmes would enable rights

⁶² . Mshana, J. A, (2017) Effective use of Information and Communication Technology in Judicial Systems: Tanzania and Other Jurisdictions in Comparative Perspectives, IJA Journal, Vol I, Issue No. I, 2017 pg 23-38, ISSN 2467-4680

⁶³ Respondent: anonymous Magistrates in Mwanza on September 2026.

holders to respond more promptly to infringement and improve the practical effectiveness of the existing legal framework.

5.5 The Government should increase funding allocation to the Judiciary, and the Judiciary should outsource funds from development Partners.

- This Article further recommends that there should be a specific funding from the government to fund for more training and facilities for the ICT systems to be used in the judiciary systems. This will help in the executions of functions done by the judiciary hence proper functions towards fulfilling its goals in line with the use of Trademarks in Tanzania.⁶⁴

Conclusion

This Article concludes that Tanzanian intellectual-property law remains founded upon distinctiveness, source identification, protection of commercial reputation and prevention of consumer confusion. The Trade and Service Marks Act, Cap 326, establishes registration as the principal basis for acquiring exclusive statutory rights and provides mechanisms for protecting those rights against infringement. The historical development of the law demonstrates an evolution from conventional physical-market protection towards a legal environment in which intellectual property is administered electronically and trademarks are increasingly used in digital commerce. The cyber era has expanded the practical meaning of trademark use by introducing websites, domain names, social-media platforms, online advertising, mobile applications and electronic marketplaces. Accordingly, the essence of trademark protection in Tanzania Mainland remains substantially unchanged, but the environment in which that protection operates has fundamentally changed. Furthermore, the legal framework governing trade marks in cyber era in Tanzania Mainland is ineffectiveness due the absence of a comprehensive digital trademark regime, the difficult relationship between trademarks and domain names, cross-border infringement, anonymous online infringers, and the lack of detailed obligations for online intermediaries and e-commerce platforms. Hence the stated recommendations above should be embraced so as to curb the above challenges.

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⁶⁴ Lainie, R.W., et al., (2015) Ready or Not Here We E-Come: Remaining Persuasive Amidst the Shift towards Electronic Filing, 12 Legal Comm. & Rhetoric: JALWD 83 at pg 37

