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UGANDAN BUSINESSES SET TO BENEFIT FROM THE AMENDED TRADEMARK REGULATIONS ACT 2021

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The Minister of Justice and Constitutional Affairs on 14th October 2020 passed the Trademarks (Amendment) Regulations, 2021 to amend the Trademark Regulations, 2012. The regulations were then published in the Official Gazette on 5th February 2021 as required by law.

A trademark is defined under the Trademark Act, 2010 to mean “*a sign or mark or combination of signs or marks capable of being represented graphically and capable of distinguishing goods or services of one undertaking from those of another undertaking*”. A trademark is part of a company’s brand. It is the embodiment of the company’s reputation. Trademark registration gives the proprietor the right to exclusive use of the mark in respect of the goods or services covered by it and allows the proprietor to sue for infringement.

Promoting Uganda’s Innovations

Uganda Registration Services Bureau (URSBS) as the National Intellectual Property Office spearheaded the amendment of the Trademark Regulations with a view of promoting accessibility to the trademark system for nationals by among others; empowering the Registrar to authorize where necessary the publication of a trademark in any alternative media such as the URSB Journal for local applicants at as low as Ugx 100,000, and USD 80 for foreigners. The Journal lists applications advertised as well as IP notices, and will be published every week on the URSB website at www.ursb.go.ug under the publications section.

Trademarks constitute the bulk of Intellectual Property Right applications in Uganda. Statistical information reveals that URSB records its most significant IP activity in the area of trademarks administration. Over the last two financial years, 2018/2019 & 2019/2020, URSB received an average of 6,033 trademark applications with 2,867 out of these being national applications, while a total of 3,166 were foreign applications. Foreign trade filings form the bulk of applications for trademarks. Statistics indicate that 60% of trademark filings in Uganda are made by non-nationals. It is hoped that the amendment of the Trademark Regulations Act will support indigenous firms to scale registrations of their trademarks.

To support these initiatives, Cabinet passed the National Intellectual Property Policy in May 2019 to nurture the growth of creativity while supporting local ventures to leverage on their innovational abilities to register more trademarks. There have also been dedicated efforts to streamline IP registrations by ensuring that laws that relate to the protection of IP rights are up to par with the current technological trends and developments.

Commercialisation of IP

As a way of easing the processes involved in registrations, URSB set the automation of its business processes as a top priority given the increased use of the Intellectual Property (IP) system and the growing economic importance of IP rights to business. This initiative has led to efficient delivery of services; reduction in processing time and costs associated with granting rights plus improvement of the quality of search and examination of trademarks.

To further streamline and simplify trademark processes, other support reforms have been introduced. Leading among them is the creation of procedures for requesting extension of time. Whereas the Trademarks Act empowers the Registrar to extend time for performing an action under the Trademarks Act, the 2012 Regulations did not provide for the procedure and fees to that effect.

Other benefits that the Amended Regulations have brought into force include introduction of references to the current version of the International Classification of goods and services under the Nice Agreement of 15 June 1957 (as revised), and the explanatory notes and lists of goods and services published therein. This is an improvement to the 2012 Regulations where reference was made to the 9th edition of the classification which was limiting.

The amended regulations will offer the public, especially local businesses and legal fraternity opportunities to enhance the competitiveness of their trade sector through easier processes and shorter time periods required to have their trademarks registered.

The writer is the Registrar General of the Uganda Registration Services Bureau.