IN THE UNITED REPUBLIC OF TANZANIA

THE BUSINESS REGISTRATIONS AND LICENSING AGENCY (BRELA)

IN THE MATTER OF TRADE AND SERVICE MARKS ACT, CAP 326 [R.E. 2023]

AND

IN THE MATTER OF TRADE AND SERVICE MARKS REGULATIONS, 2000

AND

IN THE MATTER OF TRADE MARK APPLICATION NUMBER TZ/S/2022/1291 IN CLASS 35 IN THE NAME OF KEDA INDUSTRIAL GROUP CO, LTD.

AND

IN THE MATTER OF OPPOSITION THERETO BY. WUHAN KEDA MARBLE PROTECTIVE MATERIAL CO. LTD

IN THE MATTER OF RULING IN RESPECT OF TRADEMARKS TZ/T/2022/1291

RULING

Date of Ruling: 17/09/2026

BEFORE:
Ms. Neema Kitala
(Deputy Registrar of Trade and Service Marks)

A. INTRODUCTION

1. This is an Opposition proceeding filed on 20th day of March 2023 by Wuhan Keda Marble Protective Material Co. Limited of China (hereinafter referred to as Opponent) filed through Vemma Consult Attorneys against application number TZ/T/2022/1291‘’KEDA & DEVICE (and logo) in class 35 in the name of Keda Industrial Group Co, Limited of China (hereinafter referred to as Applicant).

B. THE PARTIES:

2. Keda Industrial Group Co, limited is a corporation organized and existing under the laws of China, herein referred to as an **Applicant** while enjoying the services of ABC Attorneys.

3. Wuhan Keda Marble Protective Material Co. Limited is a corporation organized and existing under the laws of China, herein referred to as an **Opponent** represented by VEMMA Consult Attorneys.

C. PROCEDURAL HISTORY:

4. That on 24th Day of October ,2022 the Applicant filed with the registrar for registration of trademark No. TZ/S/2022/1291 KEDA & Device(Logo) in respect of Goods on Nice Class 35 *Advertising; demonstration of goods; presentation of goods on communication media, for retail purposes; organization of exhibitions for commercial or advertising purposes; outsourcing services [business assistance]; sales promotion for others; import-export agency services; marketing; updating and maintenance of data in computer databases; business management assistance; market studies; commercial administration of the licensing of the goods and services of others; procurement services*

for others [purchasing goods and services for other businesses]; search engine optimization for sales promotion; sponsorship search; providing business information via a website; administrative services for the relocation of businesses; provision of an online marketplace for buyers and sellers of goods and services; professional business consultancy; book-keeping.

5. On 28th day of November, 2022, Registrar accepted the said trademark as applied under **Regulation 27** of the Trade and Service Marks Regulations, 2000 (referred as the Regulation) consequently the said trademark was advertised in the Patents, Trade and Service Marks Journal number BRELA.IP.IP.J.100.1 of 15th day of December 2022 at page 2022.

6. Following the said advertisement, on 20th day of March 2023 the Opponent filed Notice of Opposition.

7. The said Notice of Opposition was duly transmitted to the Applicant by the Registrar as per Regulation 35, whereas the applicant responded through Counter Statement, the same was duly transmitted by the Registrar to the Opponent as per the Regulation 36 respectively.

8. In his reprisal the Applicant stated that;

i. That the applicant is the true owner of the mark KEDA & Device with trade mark application number TZ/S/2022/1291 in class 35. The applicant has registered and applied for the registration of the mark KEDA & Device in other countries around the world including but not limited to, People's Republic of China.

ii. That in the Opponent's Notice, there is neither a clear Trademark mentioned by the Opponent, nor a registration number of the claimed trademark, or a pending application of a trademark at BRELA under the name "KEDA Marks" as claimed.

iii. That, the Opponent does not have a registered trademark but a Company only with the name of Wuhan Keda Marble Protective Materials Co. Ltd. Without Prejudice, we find that the Opponent's claims are irrelevant to the applicant and the Registry at large since, he is raising an opposition to a mark that he does not own or exist. He is opposing a company's name to the applicant's trademark which is contrary to the provision of the Trade and Services Mark Act of 1986 under section 27. An opposition of a trade or service mark has to be opposed by another existing or registered trademark for it to be protected against infringement.

iv. That the Application and subsequent registration of the KEDA & Device trademark was limited to the following goods under class 35 (Advertising; demonstration of goods; presentation of goods on communication media, for retail purposes; organization of exhibitions for commercial or advertising purposes; outsourcing services [business assistance]; sales promotion for others; import-export agency services; marketing; updating and maintenance of data in computer databases; business management assistance; market studies; commercial administration of the licensing of the goods and services of others; procurement services for others [purchasing goods and services for other businesses]; search engine optimization for sales promotion; sponsorship

search; providing business information via a website; administrative services for the relocation of businesses; provision of an online marketplace for buyers and sellers of goods and services; professional business consultancy; book-keeping.)

v. That, the provision of section 16 (2) and 17 of the Trade and Service Marks Act makes the applicant's mark distinct from the mark by the opponent.

9. The statutory declaration sworn by **Sunday Godfrey Ndamugoba** of ABC ATTORNEYS for and on behalf of **KEDA Industries Group Limited** stated that the company was established in 1992 and emerged as a trailblazer in the global industrial landscape, spearheading advancements in technology and machinery into multiple sectors, including ceramics, construction materials, and environmental protection in various countries in Africa region.

10. That, an applicant herein had registered a trademark KEDA & Device in different classes including but not limited to 7, 11, 19, 35, 37, 40 and 42 in different jurisdictions, and that's makes him the rightful owner.

11. He further stated that, a trademark KEDA & Device is a well-known mark in Tanzania and in other international jurisdictions due to the fact that an applicant has been participating in various exhibitions globally, for the different products that are been produced and sold with this trademark and that there is a Ceramic Company in Tanzania which works to produce, promote and advertise products under the trademark.

12. Furthermore, he stated that, an applicant and an opponent trademark are not similar and that there are no chances of causing confusion to the consumers of the products. He insisted that, the comparison of the two marks should be done as a whole.

13. In his written submissions, an applicant herein stated filing a trademark is territorial and the same is governed by the first to file principle and that one cannot claim infringement if the trademark in question is not registered. To cement his argument he cited the case of ***The Chocoladefabriken Lindt & Sprüngli AG v. Franz Hauswirth GmbH [2009] E.T.M.R. 56*** and the case of ***Mikoani Traders Limited (Azania) v. Bakhresa Grain Milling (Rwanda) Ltd***.

14. He further stated that, a trademark KEDA & Device prior existed in Tanzania in class 7 and 11 with registration number TZ/T/2017/854 and TZ/T/2022/002846 respectively. And that it had gained a strong business reputation for having existed in Tanzania for over 10 years with number of engagements with local entities.

15. In challenging the well-knowness of the opponents` mark, he stated that an opponent shall prove the degree of knowledge or recognition of the mark in the relevant sector of the public, duration, extent, and geographical area of any use of the mark, promotion of the mark, prior Registrations, and/or any applications for registration and the record of successful enforcement of rights in the mark therefore, Registrar should reject the opposition and grant the rightful registration of the applicant's trademark Keda & Device TZ/S/2022/1291 in Class 35.

16. In the opponent statutory declaration sworn by one Du Kunwen a president of Wahun Keda Marble Protective Materials Co. Ltd, he stated that, an opponent herein is a sole proprietor of a well-known mark **KEDA** established in 1997 focused on adhesive stone, stone conversion, stone cleaning, chemical building materials and other products in the research, development and management.

17. He submitted that, KEDA trade mark has been in use on building materials including but not limited to classes 1, 2, 3, 17, 19 and 35 for which they had prior rights in various jurisdiction in the world and it has been extensively used, advertised and promoted before the opposed application was filled in 2022.

18. He further asserted that, KEDA trademark is a well-known mark and distinctive and that the use of KEDA by the applicant is likely to deceive and cause confusion to the users, infringe and diminish his rights over KEDA trademark. To support his argument he cited Section 19 (a) and (d) of the Trade and Service Marks Act and Article 6bis, 8 and 10bis of the Paris Convention for the protection of the Industrial Property.

19. The Opponent stated that the possibility of confusion is presumable as the same marks engage in a similar chain of business. For further explanations the two marks are re produces hereunder: -

TZ/S/2022/1291 (Applicant)	**TZ/S/2023/000649 (Opponent)**

KEDA	

20. In his written submission and opponent herein stated that, the registration of applicant trademark will lead to the confusion to the public against the opponent well-known mark through its registration and use in various countries, and reputation attached to each worldwide, which is contrary to Section 19(d) of Trade and service mark Act. He further stated that, the two marks are phonetically and visually similar. In addition to that, he cited Article 6bis and 10bis of the Paris Convention on the protection of the Industrial Property 1983.

21. To stress his above argument, he cited Article 2 of the WIPO Joint Recommendation Concerning Provisions on the Protection of Well-Known Marks, particularly in determination of the of the unregistered well-known mark. In addition to that, he cited the case of JC Decaux Sa and Another vs Jp Decaux Tanzania Limited (Commercial Case 155 of 2018) (2021) TZHC ComD 2030 ($ February 2021, TANZLII).

22. In arguing the likelihood of causing the confusion opponent relied on the case of Tanzania Breweries Limited vs Kibo Breweries Ltd & Another, High Court of Tanzania at Dar es Salaam, Civil Case No 34 of 1999(Unreported), which laid the tests of determining the likelihood of causing the confusion, including the ordinary man

test which was also laid in the case of Glaxo Group Ltd vs Agri-Vet Ltd (Commercial Case No. 73 of 2002) (2005) TZHC ComD 3 (16 August 2005, TANZLII).

23. He lastly prayed for the application for registration of a trademark number TZ/S/2022/1291 IN CLASS 35 be refused and that order to costs to made D.

ISSUES FOR DETERMINATION:

24. After going through the submissions, arguments and exhibits of both parties, this tribunal raised the following issues in determination of this matter:

i. Whether the trademark “KEDA” is a well-known mark in Tanzania.

ii. To what reliefs are the parties entitled to.

24. Whether the trademark “KEDA” is a well-known mark in Tanzania.

In the statutory declaration sworn by **Sunday Godfrey Ndamugoba** of ABC ATTORNEYS for and on behalf of **KEDA Industries Group Ltd** stated that the applicant company was established in 1992 in China listed both on the Shanghai stock exchange in 2002 and the Six Swiss Exchange in 2022. That as per exhibit 1 an applicant herein has been operation his business across the Africa region in Kenya, Ghana, Tanzania, Senegal and Zambia.

25. At the globally level an applicant herein produced Trademark registration certificates in different countries such as China, India, Peru, Republic of Mauritius, Ethiopia, Spain, Ukraine, Russia, Mexico, EU, United States of America, Korea, Turkey and Zanzibar, to prove to this tribunal that he is trading across the world. The

said registrations have been issued in different classes of nice classification of good and services including but not limited to 7, 11, 19, 35, 37, 40 and 42.

26. In Tanzania, an applicant herein despite obtaining registration of his mark in other classes, on 24th October 2022 filed an application for registration of a trademark KEDA & Device in class 35 which was the same was apparently accepted without any condition and later was advertised in the Patent and Trade and Service Marks Journal of 15th December 2022.

27. An applicant herein also had produced a number of exhibits which tend to prove that he had been trading and being involved in a number of business activities across the globe for its sustainability.

28. On the other hand, an opponent in his statutory declaration sworn by one Du Kunwen a president of Wahun Keda Marble Protective Materials Co. Ltd, stated that an opponent company was in 1997 in China and he has been the leading producer of building materials in China and in the worldwide market.

29. To prove that he has been operating across the globe, an opponent herein produced a number of trademark registration certificates bearing the name KEDA from different jurisdictions, just to mention China, Argentina, Brazil, Cambodia, Canada, EU, Hon Kong, India, Indonesia, Netherlands, Italy, Egypt, France, Japan, Korea, Laos, Macau, Madrid, Malaysia, Mexico, Myanmar, Pakistan, Portugal, Philippines, Russia, Saudia Arabia, South Africa, Taiwan, Thailand, Turkey, UAE, United States of America, Middle East, Singapore, South Korea and United Kingdom, which are registered in different classes.

30. He further submitted that, the opponent's trademark is a well-known mark as it has been in use for many years, advertised, and promoted domestically and internationally.

31. In determining this issue with regard to well-knowness of a mark, it is undisputed fact that, each part herein had tried to prove to this tribunal that each proprietor had been using a trademark bearing the name KEDA across the globe by referring to the number of exhibits produced by the parties.

With regard to the above facts, this tribunal pointed out that an applicant company was first established in China in 1992 and the opponent company was also established in China 1997.

32. It shall be noted that, protection of trademark is territorial which the same is obtained by its registration. Registration of a trademark in one jurisdiction does not offer protection in other jurisdictions, otherwise there would be no need of registering trademarks in more than one country. And furthermore, a well-known of a mark is tested with a particular jurisdiction.

33. Furthermore, trademark infringement arises upon already existing registered trademark and not otherwise. A mere registration of a business name or company name the same does not extend the rights of protection to trademarks, otherwise there will be no need to register trademarks.

34. Moreover, it shall further be noted that, this kind of protection is only be issued to a particular class of Nice Classification of which the trademark is registered.

Registration of a trademark in one class, does not extend to other classes which such particular trademark is not registered.

35. As I stated above that an applicant company was established in 1992 and where an opponent company was established in 1997, both companies are established in China and that, both companies' names contains the word "KEDA", as witnessed in the both parties' pleadings. And with this regard, this tribunal finds it unlikely for the later registered company to enjoy the fruits and rights of being well-known leaving behind the earlier registered company and by considering the proof of investments, promotions made as submitted by the parties.

36. As stated above, the protection of a trademark in a particular class do not extend to another classes which that trademark is not registered. In the present matter, an opponent has filed a notice of opposition against the registration of the trademark KEDA in Class 35 of the International Nice Classification of Goods and Services. The opposition is based on the specific grounds stated in the opponent's notice of opposition, challenging the applicant's right to secure registration of the mark in respect of business and related services falling under Class 35. As per the records of the Registrar in his Trade and Service Marks Register particularly in Class 35.

37. Considering the principle of first filling in trademark, it is very clear that, a proprietor who filed an application for protection of a trademark earlier before the other one, he will be considered first unlike the later proprietor. Therefore based on this facts, records and this principle an applicant herein enjoys the rights of protection compared to the opponent.

38. Borrowing the wisdom in the case of JP DECAUX TANZANIA LIMITED vs JCDECAUX S A and JCDECAUS TANZANIA LIMITED, CIVIL APPEAL NO. 254 OF 2021, the Court of appeal of Tanzania stated that:

"We are alive to the fact that section 2 of the TSMA takes cognizance of the Paris Convention of 20th March, 1983 for the Protection of Industrial Property and any of its revisions (the Paris Convention) to which Tanzania is a party. The countries to which the Convention applies constitute a Union for the protection of industrial property (see Article 1(1) of the Paris Convention). Under Article 2 of it, it is clear that ***its purpose is to extend enjoyment of protection of industrial property to nationals or country member to the Union in all the other countries of the Union but it does not touch on the judicial and administrative laws of each of the member countries****. The protection envisaged here is against infringement to the proprietorship of a registered trade or service mark. As to how protection is acquired is a matter for each country to determine….."*

In addition to that, in the above cited case the court of appeal of Tanzania stated that:

"…….the provisions of sections 14, 22(1) and 31 of the TSMA, which are in line with the above Article, gives priority protection rights to any person who was first to apply for protection of any trade or service mark in a country covered by the convention by applying to be registered. By implication, this means that a claim for infringement is available to a party who was first to apply and register its trade or service mark, hence first to acquire protection…"

E: FINAL ORDERS:

39. In light of the foregoing elaboration, it is undisputed fact that the applicant is entitled to enjoy protection of his trademark KEDA over the claims advanced by the opponent. Accordingly, it is hereby ordered that the application for registration of the trademark KEDA in Class 35 of the International Nice Classification of Goods and Services proceed to registration under Registration Number TZ/S/2022/1291.

40. With regard to the second issue on the reliefs to which the parties are entitled, this Tribunal finds that each party shall bear its own costs.

It is so ordered.

Dated and signed at Dar es Salaam this 17th day of September, 2026

Neema Kitala

DEPUTY REGISTRAR OF TRADE AND SERVICE MARKS

This Ruling is rendered electronically at Dar es Salaam this 17th day of September, 2026



Neema Kitala

DEPUTY REGISTRAR OF TRADE AND SERVICE MARKS