

TRADEMARK REGISTRATION IN NIGERIA: A PRACTICAL LEGAL GUIDE FOR BUSINESSES

In today's commercial environment, a brand is often more valuable than physical assets. A business name, logo, slogan, or product identity represents goodwill, reputation, and consumer trust. Yet many Nigerian businesses invest heavily in branding without securing legal protection through trademark registration. This article explains trademark registration in Nigeria, its legal significance, and how businesses can protect and enforce their brand rights under Nigerian law.

What Is a Trademark Under Nigerian Law?

A trademark is a distinctive mark used to identify the goods or services of one business and distinguish them from those of others. Under the Trademarks Act, Cap T13, Laws of the Federation of Nigeria 2004, a trademark may consist of:

- A word or name
- A logo or symbol
- A slogan
- A device or design
- A combination of these elements

Once registered, the owner obtains the exclusive legal right to use that mark in relation to the goods or services for which it is registered.

Trademark Registration vs Company Registration: The Common Misconception

One of the most frequent misunderstandings among business owners is the assumption that registering a company name with the Corporate Affairs Commission (CAC) automatically protects the brand. It does not. Company registration protects the corporate entity's name for regulatory purposes. Trademark registration protects the brand identity in the marketplace. A business may legally exist under CAC registration yet have no enforceable proprietary rights over its brand unless the trademark is registered.

Why Trademark Registration Is Critical for Businesses

1. Exclusive Statutory Rights

Registration grants the proprietor the exclusive right to use the mark and to restrain unauthorized use by others.

2. Legal Basis for Infringement Action

A registered trademark owner can institute an action for infringement without first proving ownership. The certificate of registration serves as prima facie evidence.

3. Stronger Protection Than Passing Off

Where a trademark is unregistered, a business must rely on the common law action of passing off. Passing off is a legal action that prevents a person from misrepresenting their goods or services as being associated with another business.

Unlike trademark infringement, passing off requires proof of:

- Goodwill
- Misrepresentation
- Damage

This makes it more complex and evidently demanding than statutory infringement claims.

4. Commercial Value and Asset Creation

A registered trademark is an intangible asset. It may be:

- Licensed
- Assigned
- Franchised
- Used in investment negotiations

For growing businesses, this enhances valuation and investor confidence.

What Qualifies for Trademark Registration in Nigeria?

To be registrable, a trademark must be:

- Distinctive
- Not deceptive
- Not identical or confusingly similar to an existing registered mark
- Not contrary to public policy or morality

Descriptive or generic words are generally not registrable unless they have acquired distinctiveness through long and substantial use. Proper classification under the Nice Classification system is also essential, as protection is limited to the class registered.

The Trademark Registration Process in Nigeria

The process typically involves:

1. Availability Search

A preliminary search is conducted to determine whether the proposed mark conflicts with existing registrations.

2. Filing of Application

The application is filed at the Trademarks Registry with details of the mark and the relevant class.

3. Examination

The Registry examines the application for compliance with statutory requirements.

4. Publication

If accepted, the mark is published in the Trademarks Journal to allow for opposition.

5. Registration and Certification

If no successful opposition is filed, a certificate of registration is issued.

A trademark is initially valid for seven years and renewed thereafter for periods of fourteen years.

Risks of Failing to Register a Trademark

Failure to register may result in:

- Loss of exclusive brand rights
- Inability to restrain imitators effectively
- Expensive litigation
- Rebranding costs
- Loss of goodwill and market share

In some cases, another party may register the mark first, even if they were not the original user, creating significant legal and commercial complications.

Strategic Considerations for Businesses

Businesses should:

- Conduct a trademark search before adopting a brand name
- Register in all relevant classes
- Register early, not after disputes arise
- Monitor for infringement
- Renew registrations promptly

Trademark protection should form part of a broader intellectual property strategy.

Conclusion

Trademark registration in Nigeria is not a mere administrative step; it is a strategic legal safeguard. In a marketplace where imitation is common and brand value drives commercial success, proactive trademark protection is essential.

Businesses that secure their intellectual property early position themselves for long-term growth, enforceability, and competitive advantage.