



**TRADEMARK**

## **TRADEMARK REGISTRATION IN NIGERIA: A KEY TO REGULATORY COMPLIANCE AND BRAND PROTECTION**

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In Nigeria, registering a distinctive trademark is crucial for businesses to establish brand identity, protect intellectual property, and differentiate themselves in the market.

A trademark is a unique identifier, consisting of a mark or combination of marks, that distinguishes a business' goods or services from others. Trademarks serve as indicators of origin and quality, enabling businesses to differentiate their products from competitors. Trademarks may take the form of a name, signature, logo, word, letter, device, numeral or a combination of these.

A key criterion for trademark registration in Nigeria is distinctiveness. Trademarks that are deceptive, scandalous, or identical to an already registered trademark for the same goods or services are not eligible for registration in Nigeria.

## LEGAL FRAMEWORK FOR TRADEMARK REGISTRATION IN NIGERIA

The Legal Framework for Trademark Registration in Nigeria includes:

### 1. Trademark Act (Cap T13, LFN 2004)

- a. **Definition of Trademark:** The Trademark Act defines a trademark as "a mark used or proposed to be used in relation to goods or services to distinguish those goods or services from identical or similar goods or services<sup>1</sup>."
- b. **Registration Requirements:** The Trademark Act also outlined the requirements for trademark registration, including distinctiveness, non-deceptiveness and non-similarity to existing marks<sup>2</sup>.
- c. **Exclusive Rights:** The Trademark Act further grants exclusive rights to trademark owners, including the right to use, right to sell and right to license<sup>3</sup>.

### 2. Trademark Regulations, 1990

- a. **Application Procedure:** the Trademark Regulations outlined the application process, including filing requirements, examination procedures, and search and opposition procedures<sup>4</sup>.
- b. **Examination and Search:** It also detailed the examination and search process, including formality examination, substantive examination and search for conflicting marks<sup>5</sup>.

### 3. Merchandise Marks Act (Cap M10, LFN 2004)

- a. **Prohibition of False Markings:** Section 2 prohibits false or misleading markings on goods.
- b. **Offenses and Penalties:** Penalties such as imprisonment, fines and forfeiture of goods were outlined<sup>6</sup>.

### 4. Trademark Malpractices (Miscellaneous Offences) Act (Cap T12, LFN 2004)

- a. **Offenses:** Sections 2-3 outline trademark-related offences, including counterfeiting, infringement, and false representation.
- b. **Penalties:** Sections 4-5 outline penalties, including imprisonment, fines or forfeiture of goods.

### 5. Trademark Regulations, 2020: this regulation introduces electronic filing and processing

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<sup>1</sup> S2 Trademark Act 2004

<sup>2</sup> S3-6 Trademark Act 2004

<sup>3</sup> S7 Trademark Act 2004

<sup>4</sup> S3-6 Trademark Regulations 1990

<sup>5</sup> S7-10 Trademark Regulations 1990

<sup>6</sup> S3-4 Merchandise Marks Act 2004

6. **Trademarks, Patents and Designs Registry** under the Commercial Law Department of the Federal Ministry of Trade and Investment, is the relevant trademark authority.



Trademark registration is a compulsory requirement for compliance with certain regulatory bodies in Nigeria:

1. **Standards Organisation of Nigeria (SON):** Responsible for industrial products such as electronic products, mechanical products, building materials, food processing equipment, chemicals etc. ensuring compliance with standards, quality, and safety requirements<sup>7</sup>.
2. **Federal Competition and Consumer Protection Commission (FCCPC):** Responsible for consumer products like medical devices, household goods, automotive products, clothing and textiles, baby products etc. for the protection of consumers, promotion of competition, and regulation of markets<sup>8</sup>.
3. **National Agency for Food and Drug Administration and Control:** Responsible for ensuring the safety and quality of food, drugs, cosmetics, and other regulated products<sup>9</sup>.
4. **National Office for Technology Acquisition and Promotion (NOTAP):** Responsible for technology-related products like telecommunications equipment, mechanical equipment, biotechnology products, renewable energy systems for the promotion of technology development, transfer, and utilization<sup>10</sup>.

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<sup>7</sup> S3-5 Standards Organisation of Nigeria Act 2004

<sup>8</sup> S1,17 & 60 Federal Competition and Consumer Protection Act, 2018

<sup>9</sup> S3,5 & 10 National Agency for Food and Drug Administration and Control Act 2004

<sup>10</sup> S4 & 5 National Office for Technology Acquisition and Promotion Act 1992

The above-mentioned regulators require trademark registration for several reasons:

1. **Verification of authenticity:** Trademark registration helps regulators verify the authenticity of products, ensuring they come from legitimate sources.
2. **Quality control:** Registered trademarks indicate compliance with regulatory standards, ensuring products meet quality and safety requirements.
3. **Counterfeit prevention:** Trademark registration helps regulators identify and combat counterfeit products, protecting consumers from harmful or ineffective products.
4. **Product tracing:** Registered trademarks facilitate tracking and tracing of products, enabling regulators to monitor distribution channels.
5. **Compliance monitoring:** Trademark registration helps regulators monitor compliance with regulations, standards, and guidelines.
6. **Enforcement:** Registered trademarks provide a basis for regulatory action against non-compliant or counterfeit products.
7. **Global trade:** Registered trademarks enable Nigerian businesses to participate in global trade.
8. **Foreign investment:** Trademark registration attracts foreign investment by demonstrating regulatory compliance.
9. **Harmonization:** Trademark registration facilitates international cooperation and harmonization of regulatory standards.

Businesses operating in Nigeria must prioritize trademark registration to safeguard their interests and comply with regulatory requirements. By doing so, they ensure the integrity of their brand, protect consumers, and contribute to Nigeria's economic growth.

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