

REGISTRATION OF BUSINESS IDENTITY: INTELLECTUAL PROPERTY CONSIDERATIONS THAT BUSINESS OWNERS MUST KNOW

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1.0. INTRODUCTION

The name of a company is a powerful part of its identity and brand equity.¹ However, many business owners overlook a critical step in safeguarding the key identifiers that are associated with their brand: Intellectual Property protection. A common misconception is that registration of a company or enterprise with the Corporate Affairs Commission (CAC) alone automatically secures exclusive rights. Contrary to this erroneous belief, a recent dispute has brought this misconception into the forefront of this discuss, igniting debates in the media space as well as within the professional business community.

A Lagos-based bakery whom had secured trademark registration for “FASTEST CAKES” in 2021, discovered recently that another business was operating under the same name, having only registered it as a business name with CAC in 2025. The ensuing clash highlighted a crucial legal reality: corporate identity is not the same as brand identity.

In a bid to avoid being trapped in an unpleasant situation as the Fastest Cakes ordeal, particularly in an increasingly competitive marketplace, it should be noted that Intellectual Property protection is not optional for brands, it is a strategic necessity. While incorporation provides a vehicle for doing business, trademark registration provides an armor for protecting the identity of the Business. Without trademark protection, another party could adopt a similar name, leaving the business with limited remedies, since the exclusive right to a mark generally arises only when it is registered. This highlights the importance of treating CAC and trademark registrations as complementary rather than interchangeable mechanisms for protecting corporate identity.



¹ Peter Gratton, 'Brand Identity: What It Is and How to Build One' (2025) <https://www.investopedia.com/terms/b/brand-identity.asp> accessed 15 September 2025.

2.0. UNDERSTANDING CAC REGISTRATION AGAINST TRADEMARK REGISTRATION²

For many business owners, CAC registration and trademark registration are mistakenly seen as alternatives rather than as complementary systems for protecting corporate identity. Section 8 (1)(a) of the Companies and Allied Matters Act 2020 (“CAMA”) empowers CAC to register companies, business names and incorporated trustees. This registration gives the business legal identity in Nigeria and permits it to operate lawfully.³ While this creates legitimacy for tax, contracts, and banking, CAC registration does not guarantee exclusivity over the business name from an intellectual property perspective.

Section 852(1)(d) of CAMA prohibits the CAC from registering a name that is “identical with or resembles a registered trademark,” the CAC’s name approval process does not interface automatically or directly with the Trademarks Registry, thereby creating loopholes.⁴ Unlike the CAC registration, which functions primarily as an administrative requirement for corporate existence, trademark registration establishes exclusive proprietary rights.⁵ As defined by the Supreme Court in *Society Bic S.A. v. Charzin Ind. Ltd.*,⁶ a trademark is a distinctive mark of authenticity through which the product of a particular manufacturer may be distinguished from those of others by word, name, symbol or device. Upon registration, a trademark affords nationwide protection, restrains others from adopting confusingly similar marks within the same class of goods or services, restricts the registration of the name mark as the name of another corporate entity and grants the proprietor the legal capacity to sue for infringement of that mark.⁷ In effect, while CAC registration legitimizes the existence of a business, trademark registration protects the commercial identity and goodwill of that business in the marketplace.⁸

3.0. IMPLICATIONS FOR CORPORATE IDENTITY AND MARKET SECURITY IN THE ABSENCE OF TRADEMARK PROTECTION

The Fastest Cakes dispute underscores the risks of relying solely on CAC registration for brand protection. Despite being incorporated, the business faced conflicts over the use of its name because it had not secured corresponding trademark protection. Similarly, in *KPMG Nigeria v. KPMG Professional Services (2025)*,⁹ The Court of Appeal emphasized the problems created by the CAC’s approval of a confusingly similar name, underscoring systemic lapses in preventing brand conflicts. Such instances highlight a recurring challenge: while CAC registration confers legal personality, it does not grant proprietary control over a brand.

Without trademark registration, a business has no enforceable exclusive rights over its name, logo, or other brand identifiers. Competitors in Nigeria’s markets, especially in sectors such as food services, entertainment, and consumer goods can adopt similar names or branding to exploit goodwill. In such circumstances, the business’s only recourse is an action for passing off, which is generally slower, costly, and harder to prove than trademark infringement.¹⁰ Furthermore, brand owners struggle to franchise, license, or expand nationally or internationally where trademark is not registered as investors and franchise partners typically demand proof of intellectual property ownership.

7 World Intellectual Property Organization, ‘Trademarks’ (2023) <https://www.wipo.int/en/web/trademarks> accessed 16 August 2025.

8 World Intellectual Property Organization, ‘Trademarks’ (2023) <https://www.wipo.int/en/web/trademarks> accessed 16 August 2025.

9 Unreported.

10 Adeyemi Owoade, ‘The Imperative for a Unified CAC and Trademark System: A Review of Sanofi and KPMG Case’ (24 July 2025) https://www.tekedia.com/the-imperative-for-a-unified-cac-and-trademark-system-a-review-of-sanofi-and-kpmg-case/?srsltid=AfmBOoqr13Vc58gke5FXMH8pGAKtABe_JTz2Ie1WNcTBEQ-M7AUKyXT accessed 9 August 2025.

registered as investors and franchise partners typically demand proof of intellectual property ownership. In view of these realities, reliance on CAC registration alone is inadequate. While the creation of a unified search system between the CAC and the Trademarks Registry could help reduce conflicts, such integration is not yet in place. Until then, it is crucial for business owners to recognize these risks and adopt deliberate strategies to protect their brands.¹¹

4.0. RECOMMENDATIONS

- **Register with both the CAC and the Trademark Registry:** CAC registration should be viewed as the starting point for establishing legal personality, not as a substitute for intellectual property protection. Business owners should, as a matter of priority, register their brand names, logos, and distinctive marks with the Trademarks Registry.
- **Conduct Comprehensive Name and Trademark Searches:** Before finalizing a business name, owners should go beyond CAC availability searches and consult the trademark register to ensure that no conflicting marks are already in existence.
- **Seek Legal Counsel:** An intellectual property lawyer can advise on proper classes for filing, enforcement strategy or trademark renewal.



¹¹ Maryam Abdulsalam, 'Registration of Trademark and Its Benefits' (2022) <https://www.mondaq.com/nigeria/trademark/1214964/registration-of-trademark-and-its-benefits> accessed 10 August 2025.

5.0. CONCLUSION

Ultimately, reform is needed to promote a more conducive environment for entrepreneurs and business owners in Nigeria. Measures such as implementing a unitary system of conducting name and trademark searches would help reduce conflicts and systemic lapses in brand protection.

However, the responsibility does not lie with regulators alone. Business owners must also take proactive steps to safeguard their brand identifiers, by combining CAC registration with trademark protection and adopting a deliberate intellectual property strategy. Nigerian entrepreneurs should not only take steps to secure their corporate identity but also adopt measures to protect their market advantage and build brands that retain long-term value.

Babalakin & Co. is a Firm with broad experience on the subject of Intellectual Property and all matters related to it. If you have any questions or would like information on the issues discussed, please contact:



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