

# REGISTERING “BOSSLADY”: AN INSIGHT INTO TRADEMARKS UNDER NIGERIAN LAW



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# Introduction

In recent times, ex-Big Brother Naija stars Tokunbo Idowu (“T-Boss”) and Kate Jones (“Ka3na”) have been at each other's throats over who should be addressed as BOSSLADY. T-Boss, popularly known as the Bosslady during the Big Brother Naija Season 2 series, which took place before Ka3na got the name at the just-concluded BB Naija Season 5, claimed to be the real Bosslady. Ka3na, however, showed that she was a woman of few words and meaningful actions, and simply decided to trademark the name 'Bosslady'. She set the Nigerian digital landscape on fire when she took to Twitter to announce that she had trademarked “Bosslady”.

Ka3na posted a tweet which stated, “BOSSLADY” IS OFFICIALLY TRADEMARKED UNDER AMOURKA3NA ENTERPRISES. Cheers Boss nation #bossladytrademarked. WARNING Now Y'all Be Careful How You Mention My Name!!!!”. Prior to this, BBNaija Erica, had received approval for the trademark of “STARGIRL” and Omotola Jalade for “OMOTOLA”. In light of Ka3na's actions, fans of T-Boss could only express their displeasure as they believe T-Boss to be the original Bosslady.

It is obvious that a lot of Nigerians are beginning to see the importance of Trademarks. Wahala for who no sabi Trademark, as we say. This article therefore seeks to provide insight into what a trademark is, the purpose of registering trademarks and the effect of trademark registration under the Nigerian Law.





## Definition of Trademark

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. A trademark is registered and remains personal to the manufacturer.

This means that no person other than the owner of the trademark can use such mark or title after it has been registered.



## Purpose of Trademark

At this point, you are probably wondering why trademark is important and what you stand to gain from it.

Trademarking is important because of the distinctiveness it gives to your products and/or services. Once you trademark your product, you get total exclusivity to the use of that mark in relation to your goods. You can say a trademark is like a signature. Only you can use it and only you can be identified with it. This guarantees product genuineness, which means no other party can make use of your trademark.

Now you understand the issue between Ka3na and Omotola. Registering your trademark gives you the automatic right to sue anybody who makes use of your mark.





## Registrability of a Trademark

Before you rush to register your trademark, here are a few things you need to know:

In order for a trademark (other than a certification trademark) to be registrable in Part A of the register, it must contain or consist of at least one of the following essential particulars -

- (a) the name of a company, individual, or firm, represented in a special or particular manner;
- (b) the signature of the applicant for registration or some predecessor in his business;
- (c) an invented word or invented words;
- (d) a word or words having no direct reference to the character or quality of the goods, and not being, according to its ordinary signification, a geographical name or a surname;
- (e) any other distinctive mark.

All these are provided for in section 9 of the Trademarks Act, Cap T13, Laws of the Federation of Nigeria 2004.





## Marks that are Ineligible to be Trademarked

- (a) deceptive marks which are likely to mislead and/or misinform the buying public
- (b) scandalous marks which are contrary to law or morality
- (c) vulgar and disparaging marks
- (d) names of chemical substances
- (e) marks which are identical to or which closely resemble an existing trademark and are thus likely to deceive or cause confusion; and
- (f) the Nigerian coat of arms or other emblems or insignias of governmental authorities.

You should also know at this point that previous use of a mark is not a condition for the valid registration of a trademark, however, a non-use action may be brought up against you if you fail to use the registered trademark in relation to your goods for a period of five years or more after registration, or if you had no bona fide intention to use the mark in relation to your goods for the time being up to the date one month before the date of the application of a non-use action by a concerned party.



This could result in your trademark being taken off the register or even possible revocation of that trademark, unless you can prove that you never had intentions to abandon the trademark in relation to the goods or that the non-use was due to special circumstances in the trade.

## Conclusion

In view of the above, the need to register one's trademark cannot be over-emphasised, as it guarantees protection under the Trademarks Act. Ka3na's action is indeed a welcome development as it has shed light on the importance of registering one's trademark under the Nigerian law.

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