



The Nigerian Experience: In Nigeria, The Coca-Cola Company (TCCC) comprises the Nigeria Bottling Company Ltd (NBC) and Coca-Cola Nigeria Limited, a subsidiary of TCCC. While Coca-Cola Nigeria Limited is responsible for consumer promotion, public relations, advertising, strategic marketing, brand management, packaging strategy, and market research, NBC purchases the concentrates, beverage bases and syrups for producing drinks according to a franchise agreement with TCCC.

As a brand, Coca-Cola is one of the most popular in Nigeria. In 2013, Coca-Cola was listed among the top 50 brands in the country by APT Brand International Limited, a brand analysis and review company. Over the years, TCCC has made financial investments to ensure that its brands are protected in Nigeria. For example, the company has registered some of its most popular trademarks including Schweppes, Coca-Cola light, Fanta, Sprite, Five Alive, Limca, Eva and of course, Coca-Cola. The company has also taken steps to register some of its international leading marks including Dasani, Glacéau Vitaminwater, Glacéau Smartwater, Minute Maid, and is a member of the Anti-Counterfeiting Collaboration (ACC) in Nigeria.

In 2014, the company faced some litigation challenges as a result of a one-count charge filed against NBC and its managing director and a two-count charge against Coca-Cola Nigeria Limited and its executives for alleged criminal breach of the Consumer Protection Council Act. The suit arose following an administrative panel, which was set up to investigate a consumer complaint regarding two half-empty cans of Sprite manufactured by NBC under the licence and authority of Coca-Cola Nigeria Limited. The administrative panel after five hearings, held between September 2013 and February 2014, substantiated the allegation of product defect and violation of the Consumer Protection Council Act.

2. First Bank of Nigeria

Brand Name: First Bank of Nigeria (FirstBank or FBN)

Sector: Financial Services

The Nigerian Experience: Ranked as the number one banking brand in Nigeria by the Banker magazine of the Financial Times and Brand Finance, London, First Bank of Nigeria Limited has the iconic African elephant with navy blue and ivory colours as its household name and logo. Founded by the British colonial government in 1894, the bank has assets valued to be worth about \$300 million.



Although FirstBank has over the years taken steps to protect its intellectual property in Nigeria, by registering trademarks such as FirstExplore, KidsFirst etc., the bank more recently found itself on the other side of an intellectual property dispute when a multi-million naira copyright infringement suit (No. FHC/CS/L/530/2014) was filed before Honourable Justice Ibrahim Buba at the Federal High Court, Ikoyi, Lagos. The suit was filed in 2014 by the Copyright Society of Nigeria (COSON) for Seven Hundred Million Naira (N700,000,000) in unpaid royalties and damages against FirstBank for copyright infringement with respect to the unauthorized use of several musical works and sound recordings communicated to the public, deployed and exploited as marketing, promotional and advertising materials and contained in First Bank's video presentation, "Sights and Sounds of Carnival Calabar".

3. GlaxoSmithKline (GSK)

Brand Name: Numerous Brands

Sector: Pharmaceutical/Consumer HealthCare



The Nigerian Experience: GSK is a leader in the pharmaceutical and healthcare industry in Nigeria. Worldwide the success of this company puts it as one of the leading research companies. GSK was incorporated in 1971 and its headquarters is in the UK. The company is listed on Nigeria's Stock Exchange.

As a company in Nigeria, GSK has spent a great amount of funds to ensure that its trademarks and patents are registered in Nigeria. Sadly, the company represents the best example of why it is crucial to register your trademarks in different jurisdictions irrespective of goodwill or worldwide recognition. See: *CPL Industries Ltd v. Sterling Products Nig. Plc and SmithKline Beecham*.

4. Etisalat (Emerging Markets Telecommunication Services Ltd)

Brand Name: Etisalat

Sector: Telecommunication

The Nigerian Experience: Etisalat is one of the big telecommunications service providers in Nigeria. A few months ago, musician, Paul Play Dairo, filed Suit No. FHC/L/CS/581/2014 for Copyright Infringement against Etisalat. The case, which is before Justice C.J. Aneke of the Federal High Court in Lagos. According to the Plaintiff, the 1st Defendant used his song



‘Mosorire’ in its popular reality TV singing competition, ‘Nigerian Idol’ for two consecutive years without paying him.

In his supporting affidavit, the Plaintiff averred:

“I am the copyright owner of the work named and tagged ‘Mosorire’, contained in my repertoire, exclusively for the jurisdiction of Nigeria and the authority or permission to exploit such work can only be obtained from me... However, the Defendants being an organizer of a television reality show tagged, ‘Nigerian Idol’ caused the use, adaptation and deployment of my said work titled, ‘Mosorire’ on the said show without my consent, and which was broadcast to several millions of television viewers throughout the Federal Republic of Nigeria and the rest of Africa for 2012 and 2013 editions.”

The Plaintiff further averred the Defendants particularly infringed on his copyright when they allowed a contestant on the show to reproduce and perform his song on television, stating that as a singer and composer, he was entitled to an annual fee of N100m on the said track, commensurate with his effort in putting the work together. The Plaintiff further averred that having made use of his work without obtaining permission from him, the defendants had caused him loss of income while “they have made gains and improved on their own brand image.”

The Plaintiff is therefore seeking a declaration:

“that the act of adaptation, deployment, public performance and exploitation of his musical work titled ‘Mosorire’ by the Defendants without the Plaintiff’s prior consent, authorization or permission constitutes an infringement of the Plaintiff’s copyright, as guaranteed by the Copyright Act, Cap C28, Laws of the Federal Republic of Nigeria, 2004 and sections 6 (6) (b) and 44 of the 1999 Constitution.”

At the time of this article, neither Etisalat nor Optima Media Group (the 2nd Defendant) have responded to the allegation.

5. Guinness Nigeria/Nigerian Breweries

Brand Name: Guinness Stout, Harp Lager, Smirnoff Ice, Guinness Foreign Extra Stout, Guinness Extra Smooth, Malta Guinness, Gordon’s Spark etc.

Sector: Alcohol

The Nigerian Experience: History has it that in 1963, Ikeja, Lagos, Nigeria was chosen as the first location outside of Ireland to brew Guinness. Since then, Guinness Nigeria, a

subsidiary of Diageo, has become an iconic brand in Nigeria creating some of the most memorable campaigns in Nigeria including the ‘We’ve Got the Power’ and ‘Michael Power’ Campaigns.



Although the company has taken steps to register a number of trademarks in Nigeria, the company has faced some legal challenges in the country including a number of lawsuits relating to product liability and consumer protection disputes. See: *Constance Ngonadi v. Guinness*. The company also ran into additional challenges for advertising alcohol during the wrong time-frame allowed in Nigeria.

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