



## Why Should you Register your Trademark?

By Judith A. Kanyoko

A trademark is a form of intellectual property, where registration is proof of ownership. Unlike real property where it is easy to monitor and protect the owner's interest, interest over intellectual property may be difficult to monitor. Registration is the surest way to avoid theft and interference. The following are advantages of registering your trademark:

### 1 Enables you to brand yourself by providing exclusive use to your mark

Registration of a mark gives the owner the right to the exclusive use of the mark. Registration notifies other persons that you are the owner of the mark which becomes a unique brand associated with you which other persons are prevented from using.

### 2 Protects your brand from counterfeits

Trademarks are used as distinguishing factor. The Trademarks Act allows registration of a mark in relation to goods. Where this is done, the mark must be capable, of distinguishing goods with which the proprietor of the trademark is connected. Registration therefore enables the owner identify his goods and prevent the use of the mark in selling counterfeit or substandard goods. This in turn protects the reputation of the business. pharmaceuticals, ensure that you get licenses from the Pharmacy and Poisons Board. This will ensure minimize the risk of closure or litigation based on non-compliance.

### 3 Enables you recover in the event of infringement

The use of a registered mark without the owner's authorization constitutes infringement. For a person to institute proceedings for infringement, the mark must be registered. The Act prohibits the institution of infringement proceedings over an unregistered trademark. However, a person may institute a suit



over an unregistered mark in an action any person for passing off. Passing off may be harder to prove thus registration offers more protection to the mark.

### 4 Gives you the power to assign or transfer the trademark to others

A registered trademark is assignable and transmissible in respect of either all the goods or all the services in respect of which it is registered. Transmission refers to transfer by operation of law, devolution on the personal representative of a deceased person and any other mode of transfer while assignment refers to allocation of the mark to another person. Assignment or transmission may be done at a value to the owner of the mark. Only the legal owner of a mark can transfer or assign it to another person.