



[Intellectual Property Dimensions of #JIBOWUPANCAKES](#)

Twitter was awash awhile ago, about the tale of some adventurous girl that went all the way to Jibowu for Pancakes, that some have described as sinful.

This update will be discussing the Intellectual Property dimensions of pancakes, I mean **#JibowuPancakes**.

This creative joint, seems to have turned, ostensibly boring pancakes into a delicacy of some sort.

As at 2016, the Association of **Fast Food** and Confectioners of **Nigerian** (AFFCON), an umbrella body of Quick Service Restaurants (QSR) has revealed that the Nigerian food industry was worth over 1trillion naira!

Eating pancakes has been transformed from routine activity into big business. Increasing competition for the attention and money of pancake restaurant patrons and pancake lovers has prompted pancake chefs to differentiate their menus by creating unique pancake dishes with innovative names that remain largely unprotected.

The time and labour that pancake chefs invest into this form of innovation represents a substantial investment, and very few have turned to the law to protect their “original pancake dishes” from competing pancake chefs.

Yet, in Nigeria copyright law fails to protect pancake chefs’ recipes from copycats. Historically, the law has viewed recipes as uncopyrightable subject matter because of their “functional” and “utilitarian” nature.

More interestingly pancake restaurant owners have not been very eager to protect the intellectual property inherent in their pancake recipes and their pancake shops as a whole.



Reasons for monetizing Intellectual property in your Pancake Restaurant

In Nigeria many Pancake restaurant operators often neglect their intellectual property and its legal power and potential to develop their unique images, fend off competition and maximise profits by commercializing their intellectual property and extending their brand identity.

As it stands, the world's most expensive pancake, is reportedly served for **\$1,350 at Opus One in Manchester.**

Key intellectual property in Pancake Restaurants and practical steps to protect them

There are a plethora of intellectual property assets that are worthy of legal protection namely Copyright, Patent, Industrial Design and Trademark and Pancake restaurants can and should use them to strengthen the value of their brands by the possibility of licensing, franchising and merchandising their Pancake Brands amongst other options.

Distinctive Names

The first slice in any great pancake restaurant is a good name. It should be registered as a trademark. A trademark is usually a word, your name; but it can also be a logo, an email address, a tag line “Flies spread disease so keep yours zipped.”.

Whether registered or not, a name is a valuable asset that can be protected under the tort of passing off.

In choosing a name, it is wise to consider a name that is distinctive. In Nigeria single location, owner-operated restaurants often bear the name of their founder or chef. But to name a restaurant SEUN’S, for example, is to create something that would be virtually impossible to protect, **it is advisable to come up with a creative name.**



A strong trademark is virtually mandatory for pancake restaurants and other members of the fast food industry.

A local pancake restaurant should, like any prudent business man at a minimum, conduct a comprehensive name/trademark search in order to avoid choosing a name similar to any known competitor or similar business.

Geographical indicators

Geographical indicators can be used to name restaurants as can be seen in “JIBOWU PANCAKES”, “AMALA SHITTA”, “OBALLENDE SUYA” “SONOLA AMALA”, “OLAIYA SURULERE”

Menus

Instead of using generic descriptions like “ofada rice” or “Agege Bread”, restaurateurs or pancake restaurant owners can choose signature names for their dishes. These special names can then be protected as trademarks and can be used to build value for the owner through licensing, franchising and merchandising etc. In addition, a menu that is an original creation, combining photographs, illustrations, images, and descriptions of the wonderful and unique Nigerian dishes, is protectable under copyright law in Nigeria.

Pancake Recipes

Often recipes are protectable trade secrets. A “trade secret” is defined as any product, operating formula, pattern, device or other compilation of information which is used in a business, which gets its economic value from being kept secret, and gives the business a competitive advantage.

Use of Take away products as a Brand Extension

Nigerian Pancake restaurants can begin to package and sell signature products outside their business premises such as take away packs, ingredients, bottled water, t-shirts, face caps, cooking aprons, gloves and dish ware.

The Pancakes restaurant’s furnishing and layout



In this writer's opinion, restaurant décor and layout as with all ideas and concepts can be protected under industrial designs provided they are distinctive. Blue tablecloths and blue wash hand basins for an Ibadan-themed Amala restaurant will probably not be protected. **Nigerian restaurants can go ahead to post signs stating that no photography is permitted on their premises, however in a social media-driven world, this may be illusory and very difficult to enforce.**

Websites and Social Media: Connecting with Customers

There is a need to ensure that Pancake company websites (internal and external) do not contain information which you want to be able to classify as a trade secret or confidential or proprietary. Websites need to be reviewed regularly to ensure such information is not placed at risk. Pancake Restaurant owners must address what information employees can discuss or post on blogs, and prohibit the disclosure of confidential information and trade secrets. It might be prudent to monitor blogging activity frequently, and take steps to prohibit or stop trade secret disclosures.

Consequences of Failing to Register Trademark/other Intellectual property

The absence of trademark registration may limit your expansion into new territories. Trademarks are tied to a geographical location; without a registration, your rights may be limited and you can get boxed in if a third-party registers the same name you use.

In addition it also means you have no obvious asset. You may have trademark rights based on prior use (at common law), but banks and other financial institutions are more likely to reckon with trademark registration as a tangible evidence of an intangible asset.

If you want to franchise your Pancake business model, not having a trademark registration is a significant risk and your franchisee may just go ahead and register your trademark in their own name and then go ahead to rail road you out of the market.



Registering your pancake intellectual property is not going to automatically prevent others from encroaching on your territory. Intellectual Property owners are obligated to protect their own right using governmental apparatus and applicable laws, well that is part of the reason you pay taxes.

Part of any good Intellectual Property protection strategy should include some budget to properly commercialize their IP in other to maximise profit and a willingness to fight any IP infringers.

Conclusion

Simply owning intellectual property rights does not generate money. To produce income the owners of these rights must exploit them financially through various types of commercial agreements including but not limited to licensing arrangements and/or assignments of rights.

In a sense, all of these commercial agreements are an attempt to turn intellectual property into intellectual capital that will then increase your cash flow

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