**THE NEED FOR STRENGTHENING INTELLECTUAL PROPERTY RIGHTS IN NIGERIA.**

**ABSTRACT**

Intellectual capital is one of the most important drivers of innovation and economic development in any country. Africa has longed for economic influence and power, but the answer to the lingering questions about financial autonomy lies in innovation and creative thinking. This paper aims to discuss the importance of intellectual property protection under Nigerian laws, it also suggests practical ways intellectual property rightscan be strengthened to reduce piracy and copyright infringements.

**1.0 WHAT ARE INTELLECTUAL PROPERTY RIGHTS?**

Intellectual Property (IP) is the creation of the human mind and intellect. In general terms, it refers to the ideas produced by the creation of the human mind, inventions, literary and artistic works, symbols, names, and images used in commerce.[[1]](#footnote-2) Intellectual property rights are specific legal rights that protect the owners of intellectual property. It’s an exclusive proprietary right granted by the law to owners of intangible assets which are innovative products of the brain or the mind, as opposed to personal or real properties. Intellectual property law, therefore, encompasses the body of rules and regulations governing the creation, acquisition, and protection of IP, as well as adjudication over allegations of their infringements[[2]](#footnote-3). Nigeria is filled with intellectuals, great innovators and entrepreneurs who create outstanding products, but unfortunately, many have failed to recognize and protect by law, the strength of their ideas and innovation, and this has gradually increased the activity for counterfeit and pirated goods. PWC highlighted few economic indicators that may have influenced intellectual property infringements; lack of awareness, unemployment, inflation, and exchange rates are some amongst many. [[3]](#footnote-4) Perhaps, with an understanding of the legal framework of intellectual property in Nigeria, the problems with copyright infringements will be curtailed.

**1.1 HIGHLIGHTS OF INTELLECTUAL PROPERTY LAW IN NIGERIA.**

Under the Nigerian Laws, there are four distinct types of intellectual property; Copyright, Patents, Industrial Designs, and Trademark. Some extant laws that exist for the enforcement of these rights include the Copyright Act, Cap38, Laws of the Federation of Nigeria, 2004, Patent and Designs Act, Cap P2, Laws of the Federation of Nigeria, 2004, The Trademarks Act, Cap T13, Laws of the Federation, Merchandise Marks Act, Cap. M10, Laws of the Federation of Nigeria 2004 and Trade Malpractices (Miscellaneous Offences) Act, Cap. T12, Laws of the Federation of Nigeria 2004. The Copyright Act defines the basic types of copyright that can be protected under the law.Copyright doesnot need to be registered at the Nigerian Copyright Commission before it can be protected by law. However, patents, industrial designs, and trademarks have to be registered at the registry before anyone can claim enforcement against infringement. The Nigerian Copyright Commission (NCC) has done some work to strengthen the enforcement and management of IP assets in the Nigerian economy, although there is no uniform legal institution responsible for intellectual property management in Nigeria.

By law, the NCC is saddled with the responsibility of monitoring, administering, enforcing copyright laws, and to enlighten the public on matters related to copyright. The launch of the e-registration portal for copyright protection is commendable, now business owners can lawfully register their creative works for N10,000 and $60 for those who are registering from outside Nigeria.[[4]](#footnote-5)Efforts have been made to provide online facilities for the registration and protection of copyright, but are the members of the public aware of this? Do they know the commercial implications of intellectual property management? It is the duty of the NCC to provide timely information as regards the process for enforcement and registration of copyright. Perhaps, they struggle to get this done because of inadequate capital and poor infrastructure. Suppose institutions are educated on IP assets and management, do we have relevant laws and regulations that accord with the international trade and advanced technology to enforce or mitigate global IP threats?[[5]](#footnote-6)Some legal jurists have stated that the lack of enforcement of IP rights in Nigeria has hindered innovation and economic progress. Emmanuel Onyeje, former country manager, Microsoft Nigeria stated that Nigeria loses N47.5 billion (US$300 million) yearly to IP theft.[[6]](#footnote-7) The BSA Global Software Piracy Study has noted that reducing IP theft (software piracy) by just 10% over four years could deliver billions of naira in economic growth and create thousands of new jobs to occupy the growing army of the youthful unemployed. [[7]](#footnote-8)

The strength of a country’s intellectual property rights regime (IPR), amongst many benefits, contributes to foreign direct investments, economic growth, innovation, technology transfer, global attraction, and research development. The Nigerian government must begin to invest in research development and science because it is key to industrial innovation, although the engines of innovation are largely in private hands, the federal government can provide significant support for all research labs through tax policies, intellectual property incentives, and other incentives. These investmentswill foster growth, spark inventions, and the development of a new generation scientists and engineers.

**2.0 SOLUTIONS: A CASE STUDY ON CHINA**

The Chinese government recognized the importance of developing knowledge-based industries and the role of intellectual property (IP) in stimulating innovation in these industries. Some years ago, China set a goal in its Medium and Long Term National Plan for Science and Technology Development to “noticeably enhance indigenous innovation capability and join the ranks of innovative countries” by the year 2020.[[8]](#footnote-9)To achieve this goal, China aims to rank in the top five positions in the world in patent filing among other strategic goals such as raising research and development (R&D) expenditures to 2.5 % of the GDP and reducing dependence on imported technology to 30%. The Chinese government has also identified several strategic emerging industries that are key targets for developing independent innovation capacity. These industries and their projects are mostly knowledge-based, such as “national broadband internet agenda, cloud computing, the Internet of Things, integrated circuits, flat-panel displays, space infrastructure, regional aircraft and industrialization of general aviation aircraft, as well as major application and demonstration projects on the health of the people and on using information technology to benefit the people. A clue is taken from this that the Chinese government created a national plan for intellectual property development, as well as identified the sectors and industries where industrial innovation would arise from.

Since 2014, China has opened IP specialized courts and tribunals in Beijing, Shanghai, and Guangzhou, training attorneys and judges in technical cases. [[9]](#footnote-10) The courthouse consists of a case filing chamber, several tribunals, a technical research office, and a judicial police team. The average adjudication time for foreign-related IP cases handled by Beijing Intellectual Property Court is 4 months, while that of major European countries is about 18 months. The Shanghai Intellectual Property Court further explored mechanisms for dispute resolution to shorten the duration of a case and signed corporation agreements with 13 mediation organizations and industrial associations. The judiciary in China adopted a collaboration strategy with international bodies and organizations to provide fast dispute resolution for technical IP related disputes. [[10]](#footnote-11)

**2.1 RECOMMENDATIONS**

As noted earlier, priority should be given to creating a strategic national IP plan and policy that identifies needed legal and policy reforms, encourages implementation of the identified policies and allocates sufficient resources to ensure effective enforcement. Relevant sectors where there is a need for progressive protection of intellectual property like information and communications sector, pharmaceuticals, entertainment, and consumer goods should be benchmarked and efforts made to strengthen IP rights, which if executed can boost the Nigerian economy and GDP growth.

Going forward, the government must take responsibility to foster innovation by investing in research and development programs to advance the knowledge and evidence upon which IP policy is built. The establishment of a collaborative approach with private organizations, government agencies, and international organizations will go a long way in strengthening the fight against online piracy and counterfeited goods.

**3.0 Conclusion**

Today’s technology revolution is affecting lives, people, continents, and jobs**;** this is whycountries pushing the frontiers of global trade always have a strong Intellectual property policy and framework. It’s time for the federal government and industry experts, to encourage research and development, create a strategic national IP plan and align strategic goals with enforcement policies. Without this, it might be difficult to grow an economy in this age of emerging technologies.

1. Intellectual Property Law Association( WIPO), <https://www.wipo.int/about-ip/en/> [↑](#footnote-ref-2)
2. Banwo & Ighodalo, “Strengthening Intellectual Property Rights and Protection in Nigeria”,<https://www.banwo-ighodalo.com/grey-matter/strengthening-intellectual-property-rights-and-protection-in-nigeria> [↑](#footnote-ref-3)
3. PWC,” The impact of intellectual property infringement on Business and the Nigeria Economy”, 2019, Page 2. [↑](#footnote-ref-4)
4. Nigerian Copyright e-registration system offers a platform for creators of copyright to register their works online. <http://www.eregistration.copyright.gov.ng/ncc/about> [↑](#footnote-ref-5)
5. Banwo & Ighodalo, supra note P. 5 [↑](#footnote-ref-6)
6. World business organization report “ Promoting and Protecting Intellectual Property” p. 16 [↑](#footnote-ref-7)
7. 2011 BSA Global Software Piracy Study, ninth edition , 2011 p. 9, available at:<https://globalstudy.bsa.org/2011/downloads/studies/BSA_GSS_US.pdf> [↑](#footnote-ref-8)
8. National Medium- and Long-Term Program for Science and Technology Development of China (2006–2020), <https://www.itu.int/en/ITUD/Cybersecurity/Documents/National_Strategies_Repository/China_2006.pdf> [↑](#footnote-ref-9)
9. Racounter Intellectual property report ‘’How China became a leader in intellectual property Law”. <https://www.raconteur.net/risk-management/how-china-became-leader-intellectual-property> [↑](#footnote-ref-10)
10. AFD China Intellectual Property Law Office, [www.lexology.com/library/details](http://www.lexology.com/library/details) [↑](#footnote-ref-11)