



Intellectual Property
May 16th, 2018.



To commemorate the World Intellectual Property Day celebrated on 26th April 2018, the theme focused on “**Powering change: Women in Innovation and creativity**”, in celebration of the brilliance, ingenuity, curiosity and courage of the women who are driving change all over the world for our common future. Our Yetunde Okojie and Oluwasolape Owoyemi were interviewed by **Flora IP**,¹ to provide key basic insights into intellectual property practices in Nigeria. Below are some of areas discussed: The original interview can be found here:

<https://www.floraip.com/2018/04/27/world-ip-day-celebrating-s-p-a-ajibade-co-women-in-ip/>

1. Intellectual Property Basics

Intellectual property law creates exclusive rights in a wide and diverse array of things, ranging from novels, computer programs, performances, films, paintings, including designs, and pharmaceuticals etc.² According to the World Intellectual Property Organisation (WIPO), Intellectual property refers to creations of the mind such as inventions; literary and artistic works; and symbols, names and images used in commerce. It can also be defined as an intangible or incorporeal legal right in the nature of a chose in action, that caters to the creative efforts of individuals and institutions, as well as the regulation and protection of those rights vis-à-vis the owners thereof and third parties.

The major sub-sets of Intellectual Property rights include but are not limited to:

- a. Copyright & Allied Rights
- b. Trademarks and Trade Names
- c. Patents and Designs
- d. Trade Secrets and Commercially sensitive information

¹ <https://www.floraip.com/2018/04/27/world-ip-day-celebrating-s-p-a-ajibade-co-women-in-ip/>
² Lionel Bentley, Brad Sherman *Intellectual Property Law* 4th ed. OUP (2009) p. 1.

- e. Entertainment and Media
- f. Art and Sports

2. Why are Intellectual Property Rights important?

Intellectual Property Rights (IPR's) foster creativity and innovation. They help stimulate research, development (R&D) and the diffusion of knowledge. In addition, IPR's protect business interests and provide revenue through licensing and assignments. Primary IP rights allow creators or owners of patents, trademarks or copyrighted works to benefit from their own work or investment in a creation. These rights are outlined in Article 27 of the Universal Declaration of Human Rights,³ which provides for the right to benefit from the protection of moral and material interests resulting from authorship of scientific, literary or artistic productions.

There is a huge shift in global economic structures, with many countries beginning to transition to knowledge-based economies. An efficient and equitable intellectual property system can help countries realize IPRs potential as a catalyst for economic development and social and cultural well-being.

3. How can interested Inventors/Creators learn how to protect their Intellectual Property in Nigeria?

To protect Intellectual Property in Nigeria, Inventors/Creators need to register their creations or innovation with the appropriate regulatory authorities. For example, copyright owners are advised to register their creations on the Nigerian Copyright Commission's (NCC) online database. Although copyright registration is not compulsory, it provides a convenient tool for proving ownership, date of creation and other ancillary information relating to copyrighted material. Copyright owners/authors must read agreements carefully to avoid unintentional transfer of rights. It is also important for copyright and trademark owners to retain the services of a lawyer to conduct constant market watch, identify infringing goods and employ necessary legal steps to deter unlawful distribution of infringing materials. Creators and inventors should also register their brands with the Trade Marks, Designs and Patent Registry in Nigeria. The initial registration is valid for 7 years and subsequent renewals are valid for 14 years. Trademark registration rights can last indefinitely provided the owners continue to use them and they are renewed up to date. Inventors should register patents for new (or improved) inventions which result from innovative activity and are capable of industrial application. Nigeria is not a patent examining country. This means that there are no substantive examinations of patents before they are granted. Patents have a 20-year validity in Nigeria.

³ Universal Declaration of Human Rights 1948.

4. Fundamental IP Protocol for Companies and SMEs

It is imperative that Company's understand and value the importance of intellectual property. A company's success and commercial value is mainly attributable to its intangible assets. These assets should be captured, catalogued, quantified and properly protected in order to create real enterprise value. These assets can range from a unique business method or process to a simple company slogan. It is highly important that companies register their unique intangible properties at the earliest opportunity. Companies who fail to register their creations or who do not monitor and shield them from unauthorized uses, are likely to lose these rights. Analyzing the IP landscape to assess possible risk factors provides an opportunity for an informed and effective action plan to deter threats from competitors.

5. Recommended Changes to the Intellectual Property Landscape in Nigeria

- 5.1 Increased public awareness about IP in Nigeria.
- 5.2 Development in the Judicial and legal aspects of Intellectual Property law practice in line with global best practices.
- 5.3 The passage of pending IP bills such as the Industrial Property Bill, 2016, the Copyright Bill, 2015 (A Bill for an Act to Amend the Copyright Act, Cap C28, Laws of the Federation of Nigeria, 2004) and the Data protection Bill, 2017.
- 5.4 A fully digitalized trademark registry and broad-based automation of IP related services and deliverables. At the moment, registered agents can pay for services online but cannot conduct searches online.
- 5.5 A more practical approach from the government regarding foreign participation and investments in Nigeria. Too often when foreign specialists are commissioned to do work or receive special permission/concessions to conduct business in Nigeria, the extent of their obligation will usually be to provide Nigeria with new technologies. However, due to the lack of local technical expertise and relevant know-how, the country is unable to fully utilize these technologies. Therefore, provisions that mandate foreign companies to provide special technical training on how to operate or manipulate innovative technologies (in accordance with NOTAP⁴ regulations) should be put in place or enhanced to ensure that the country receives the best possible outcome from foreign participation.

⁴ The National Office for Technology Acquisition and Promotion.

For further information on this review and area of law please contact **Yetunde Okojie** at:

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