

ARTICLE SERIES

**INTELLECTUAL PROPERTY -
PROTECTING & PROMOTING CREATIVITY AND
INNOVATION FOR A VIABLE FUTURE**

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INTRODUCTION

Since the beginning of time, art and design have been used by cultures worldwide to document histories, practices, and innovations. As time has evolved, art and design cannot be seen only as identifying elements of cultures, but also as an “engine” of socioeconomic development given their commercial relevance.

The World Intellectual Property Organization (WIPO) explains that the “creativity, skill and talent of literary and artistic creators is also their main means of creating wealth and jobs. By compensating and rewarding creators’ effort and creativity, copyright acts as an incentive to continue to create new work. By striking the right balance between the interests of creators and the wider public interest, copyright law aims to foster an environment in which creativity and innovation can flourish.”

In Nigeria, creativity and innovation have been largely characterized by massive growth and development, although this has been largely private sector driven.

According to PwC, the Arts, Entertainment and Recreation Sector (which largely drives creativity) contributed 2.3% (N239billion) to Nigeria’s Gross Domestic Product (GDP) in 2016. In 2020, motion pictures and music recordings alone accounted for roughly N730 billion Naira to the said GDP.

In a similar vein, the information communication and technology (ICT) sector (which is the sector that drives innovation in Nigeria) has consistently contributed 10% of Nigeria’s GDP for the last 10 years[1]. In consequence, in the last quarter of 2020, the telecommunications sector alone contributed 12.5% to the GDP and in the first quarter of 2021, the ICT sector (as a whole) contributed over N4 trillion to the N40trillion GDP that Nigeria generated in the said quarter[2]. These statistics undoubtedly show that creativity and innovation are not only huge in Nigeria, but they also largely contribute to Nigeria’s economic growth and development.

Furthermore, with the surge of NFTs and other Web3 affiliated forms of creative art, intellectual property (IP) and technology stand to play even more prominent roles in wealth creation in the nearest future. In fact, the average monthly trading volumes of NFTs was valued at \$750 million/per month in 2021.

PROTECTING CREATIVITY AND INNOVATION

With the recent technological evolution that the world has experienced, encouraging, protecting and promoting creativity and innovation is now imperative. Interestingly, Nigeria in recent times has witnessed massive creativity and innovation, particularly in the technology sector. There has been a consistent rise in businesses and ventures birthed around innovation and creativity. For example, there currently exists various start-ups established on the need to provide various innovative solutions to the masses. These solutions span areas like finance, health, media and entertainment, sports and even food and beverages (fast-moving consumer goods).

With respect to finance, Nigeria plays host to financial technology (fintech) entities like Kuda, Flutterwave, Piggyvest and several others (established and geared towards creating and promoting payment solutions in Nigeria and internationally). In the entertainment industry, Nigeria has witnessed the birth of indigenous entertainment entities like video and audio on demand streaming platforms such as Udux Music and Iroko Tv, established with the aim of ensuring that the Nigerian audience has adequate access to visual and audio entertainment contents. This goes to show that creativity and innovation have been institutionalized in Nigeria.

However, as technology advances and the internet use and applications expand, so do the threats of IP Infringement which is a major challenge to IP rights and development in Nigeria. These violations are more dominant in the following industries: book publishing (book piracy), information and communications technology – ICT – (internet & software piracy) and film and entertainment (musical & cinematography disc piracy).

Every year, Nigeria loses an estimated USD 3 billion to piracy. The prevalence of piracy is seemingly affirmed by Nigeria's abysmally low share in Africa's annual royalty collections despite the fact that the country's creative industry is one of the largest in Africa.

Coupled with infringement of IP rights is the lack of an efficient deterrent enforcement system. It is apparent that reforming our IP legislation alone may not achieve optimum results in protecting IPR holders, except the mechanism for enforcing the law is equally enhanced. Law enforcement agents, particularly the Nigerian Police Force and the Nigeria Customs Service, need to be more empowered to carry out their policing and prosecution functions.

Another setback to the commercialization of IP in Nigeria is the unwillingness of the Nigerian Legislature to domesticate IP Treaties such as The Agreement on Trade-Related Aspects of Intellectual Property Rights and the Patent Cooperation Treaty. It is noteworthy that this setback is attributable to the provision of the constitution that does not allow a treaty to be domesticated automatically upon ratification. According to Section 12 of the Constitution of the Federal Republic of Nigeria, “No treaty between the federation and any other country shall have the force of law except to the extent to which such treaty has been enacted into law by the national assembly.”

Inadequate policies by Government on Intellectual Property also form a roadblock to IP commercialization in Nigeria. For instance, there is currently no special body with the mandate to generally oversee the various IP regimes in Nigeria, instead, certain industry-specific institutions and regulations have been established over the years to govern IP in the country, such as: The Nigerian Copyright Commission, The Trademarks, Patents and Designs Registry etc.

CONCLUSION

Despite the contribution of the creative industry to Nigeria’s economic development, it has been particularly beset by lack of support and proper funding. For example, as earlier noted, it is largely private sector driven with little or no coordinated support/intervention from the government.

The attempts at supporting the creative industry have proven futile largely because of corruption and the absence of adequate and proper will by the government to really support the said industry. However, it must be noted that this industry holds a lot of potential and prospects if adequately supported.

For example, it is projected that the annual growth in the entertainment and media industry alone, will average 4.2 percent, by the end of 2022. Indeed, supporting creativity and innovation in Nigeria will bring about more contributions to the country, particularly to its economy. Foreign investment will be boosted in this regard and it will encourage the emergence of more players in these industries.

Additionally, if Nigeria, and indeed other African countries are to catch up and cash in on the 5th industrial revolution, the protection of IP rights must be prioritised. The internet, and technology continuously democratises wealth for younger generations of Africans, protecting their creativity, and fuelling their innovation. It is only right, that our laws and legal systems reflect this growth.



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