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**1. PATENT**

A patent is a right granted to an inventor by the federal government that permits the inventor to exclude others from making, selling or using the invention for a period of time. A patent grants the inventor a temporary but exclusive monopoly of the commercial exploitation of that invention. It gives the inventor the right to exclude others from making, using, or selling the claimed invention in that country without their consent, for the duration of the patent.

The modern Nigerian law on patent is governed by the Patents and Design Acts Cap. 344 of the law of the Federation of Nigeria 1990(Act of 1970). It is administered by the Registrar of patent, trademark and industrial design which is under the umbrella of the Federal Ministry of Commerce, Abuja.

The main reason to register a patent is to ensure that the inventor is able to exclusively commercially exploit an invention, it must be patented. The rights to a patent are vested in the “Statutory Inventor” i.e. the first person to file and register the patent.
The law provides that a patent may be granted for an invention that:

1. is new
2. involves an inventive step (not obvious)
3. is capable of industrial application (useful)
4. is not specifically excluded in the Act (e.g inventions the publication of which may encourage immoral and offensive behaviour)
5. An address for service in Nigeria if the applicant's address is outside Nigeria.
6. An application must date only to one invention but may cover claims for any number of products or processes.

**2. COPYRIGHT**

 A copyright is a legal right that grants the creator of an original work exclusive right to its use and distribution, usually for a limited time. The exclusive rights are not absolute; they are subject to certain limitations. In Nigeria, copyright is governed by the Copyright Act, and the body charged with the enforcement and protection of copyright is the Nigerian Copyright Commission (NCC).

The ownership of copyright is vested in the creator of a copyright work, usually referred to as the “author” of the work. He/she owns the copyright in the work in the first instance. However, the author is at liberty to transfer his rights to a third party. In such a case, the person who has obtained the right by transfer or other legal means becomes the owner of copyright.

WORKS THAT ARE ELIGIBLE FOR COPYRIGHT PROTECTION

1. Literary works;

2. Musical works;

3. Artistic works;

4. Cinematograph works;

5. Sound recording; and

6. Broadcasts

For it to be eligible for protection, the work must be sufficiently original, and must be in a form which is expressed e.g. in writing, a painting, a musical recording etc. You can’t have copyright protection over something in your head, which has not been expressed. Originality and expression are the key pillars for eligibility.

DO YOU NEED TO REGISTER A COPYRIGHT?

It should be noted that registering for copyright is not a precondition for protection. You do not have to register your copyright. It subsists automatically in a work from the moment the work is created.

However, the NCC has established a voluntary copyright registration scheme designed to enable authors and right owners notify the Commission of the creation and existence of a work.

The NCC justifies the establishment of this scheme based on the following benefits:

1. It provides an independent source of verifying data relating to a work or its author to the general public;

2. The acknowledgement certificate issued provides prima facie evidence of the facts shown on it;

3. It provides a depository for preserving original copies of works notified;

4. The information and data contained in the Notification database offers reliable rights management information to members of the public and prospective licensees to the work

HOW COPYRIGHT PROTECTS YOUR WORK

It prevents people from:

1.Copying your work.

2. Distributing copies of it, whether free of charge or for sale.

3. Renting or lending copies of your work.

4. Performing, showing or playing your work in public.

5. Making an adaptation of your work.

6. Putting it on the internet.

**3. TRADEMARK**

A trademark is a word, phrase, symbol or design, or a combination of words, phrases, symbols or designs, that identifies and distinguishes the source of the goods of one party from those of others.

Once registered, it enables the trademark owner to amongst other things- take legal action against anyone who uses the registered mark without permission, sell and/or license the registered trademark (so in a sense it becomes an asset), and allows the owner to legally put the ® symbol next to the brand – to show ownership and warn others against using it.

In Nigeria, the legislation, which governs the registration of trademarks, is the Trade Marks Act (and the Trade Mark Regulations made pursuant to it). The government agency in Nigeria that is in charge of the registration of trademarks is the Trademarks, Patents And Designs Registry, Commercial Law Department, Federal Ministry Of Industry, Trade And Investment. Applications are made to the Registrar of Trade Marks.

This Department is charged with the duty of dealing with applications for the registration of trademarks, and other connected matters.

Nigeria is a party to the Nice Agreement and under this agreement, Trademarks are classified under 45 classes. Therefore, a trademark must be registered under the most relevant class.

Who can process a registration?

Under Nigerian law, only accredited individuals/companies can register trademarks. So if you are interested in registering your trademark you will need to hire the services of accredited agents for this process.

What is eligible for registration?

Device, brand, heading, label, ticket, name, signature, word, letter, numeral, or any combination thereof;

For it to be eligible for registration in NIgeria it must contain or consist of at least one of the following essential particulars –

The name of a company, individual, or firm, represented in a special or particular manner;

The signature of the applicant for registration or some predecessor in his business;

An invented word or invented words;

A word or words having no direct reference to the character or quality of the goods, and not being according to its ordinary signification a geographical name or a surname;

Any other distinctive mark

Requirements for Trademark registration in Nigeria

1. Applicant’s details

2. Trademark Information

3. The full range of goods covered or proposed to be covered by the trademark.

4. Power of Attorney/Authorization of Agent

Do you need to register a Trademark in Nigeria?

In order to have exclusive use of your trademark, it is imperative that you register it. Unlike with copyright, protection does not vest automatically in the owner. Not registering a trademark would mean that you do not have exclusive right to use it. If someone were to use the same mark as you, the only recourse you would potentially have would be an action for the tort of passing off. So, yes you should register your trademark.

Process for Trademark Registration in Nigeria

The Trademark registration process can be broken into the following general stages:

1. Availability Search – You conduct a search to determine whether there are registered marks that are similar to your proposed mark. The outcome of the search will help you determine whether the proposed mark may be registered or not.

2. Trademark Application – If there is no similar mark, you may apply for registration. If the application is deemed registrable, the registry issues a Letter of Acceptance that serves as an approval in principle. After the acceptance has been issued, the mark is advertised in the Trademarks journal published by the Trademarks Office.

3.Application for Certificate – Once the proposed mark has been advertised, an interested party may oppose the registration of the mark within 2 months of the advertised journal. If the mark is not opposed within 2 months, you may then apply to the Registrar for a Trademark Certificate.

4. Issuance of Certificate – If there are no objections received, the Registrar will issue the applicant with a certificate of registration. When issued, the Registration Certificate will reflect the date of initial filing as date of registration.

A trademark is valid in Nigeria for an initial period of 7 years, and then for further renewable 14-year periods. An application for renewal should be made not less than three (3) months from the due date.

A trademark in Nigeria may be registered either plainly (black and white) or in colour. However, where a trademark is registered in colour, the protection afforded is limited to the colour(s) registered. On the other hand, a plain (black and white) registration affords protection to all colours of presentation of the trademark.

**4. TRADE SECRET**

A trade secret is any practice or process of a company that is generally not known outside of the company. Information considered a trade secret gives the company an economic advantage over its competitors and is often a product of internal [research and development](https://www.investopedia.com/terms/r/randd.asp).

Trade secrets are an important, but invisible component of a company's intellectual property (IP). Their contribution to a company's value, measured as its market capitalization, can be major. Being invisible, that contribution is hard to measure. Patents are a visible contribution, but delayed, and unsuitable for internal innovations. Having an internal scoreboard provides insight into the cost of risks of employees leaving to serve or start competing ventures.

In contrast to registered intellectual property, trade secrets are, by definition, not disclosed to the world at large. Instead, owners of trade secrets seek to protect trade secret information from competitors by instituting special procedures for handling it, as well as technological and legal security measures. Legal protections include non-disclosure agreements (NDAs), and work-for-hire and non-compete clauses. In other words, in exchange for an opportunity to be employed by the holder of secrets, an employee may sign agreements to not reveal their prospective employer's proprietary information, to surrender or assign to their employer ownership rights to intellectual work and work-products produced during the course (or as a condition) of employment, and to not work for a competitor for a given period of time (sometimes within a given geographic region). Violation of the agreement generally carries the possibility of heavy financial penalties which operate as a disincentive to reveal trade secrets. However, proving a breach of an NDA by a former stakeholder who is legally working for a competitor or prevailing in a lawsuit for breaching a non-compete clause can be very difficult. A holder of a trade secret may also require similar agreements from other parties he or she deals with, such as vendors, licensees, and board members.