***Reimagining Intellectual Property in Nigeria's Digital Economy: The National Intellectual Property Policy & Strategy, 2025 in view.***

The rapid expansion of Nigeria's digital economy has fundamentally altered the creation, exploitation, and enforcement of intellectual property rights. While Nigeria's intellectual property ("*IP*") regime has historically been primarily governed by legacy statutes such as the **Copyright Act**, the **Trademarks Act**, and the **Patents and Designs Act**, these laws were designed for an analogue environment and are increasingly strained by technological developments.

The introduction of the **National Intellectual Property Policy and Strategy, 2025** by the *Federal Ministry of Industry, Trade and Investment (the "Ministry")* represents a significant shift toward repositioning IP as a driver of economic growth and innovation. This article critically examines the evolution of Nigeria's IP framework in light of digital transformation, evaluates the legal and institutional gaps that persist, and assesses whether the National Intellectual Property Policy and Strategy provides a sufficient foundation for a modern and innovation-driven IP system. It concludes that while the policy marks a progressive shift, comprehensive legislative reform and effective institutional implementation remain imperative.

**Introduction**

The concept of intellectual property has evolved from a narrow legal construct into a central pillar of modern economic systems. In Nigeria, this evolution is occurring against the backdrop of rapid digitalization, increased internet penetration, and the emergence of technology-driven business models.

Historically, Nigeria's IP laws were designed to regulate tangible expressions of creativity and invention within clearly defined territorial boundaries. However, the digital economy has disrupted these assumptions by enabling:

- *instantaneous global dissemination of works;*
- *decentralized ownership structures; and*
- *new forms of intangible assets, including digital tokens and algorithmically generated content.*

The enactment of the **Copyright Act, 2022** marked a significant attempt to modernise aspects of Nigeria's IP regime, particularly in relation to digital rights management and online infringement. However, broader systemic reform remained necessary.

It is within this context that the Ministry introduced the **National Intellectual Property Policy and Strategy, 2025** (*"NIPPS*" or the "*Policy*") signalling a deliberate shift from IP as a purely legal entitlement to IP as an instrument of economic policy.

**Nigeria's Intellectual Property Framework:** ***A Doctrinal Overview***

*Copyright Law Under the Copyright Act, 2022*

The Copyright Act represents the most modern component of Nigeria's IP framework. Section 2 of the Act defines the categories of works eligible for protection, including *literary, musical, artistic, and audio-visual works, and broadcasts*. Under Section 9, copyright confers exclusive rights on the author, including rights to *reproduce, publish, perform, adapt, and communicate* the work to the public. Notably, Section 12 extends these rights to digital environments by recognizing communication to the public. The Act also introduces provisions addressing online infringement. For example, the Act provides for liability in respect of infringement occurring in digital environments,[1] introduces mechanisms for technological protection measures and rights management information.[2] Despite these advancements, enforcement remains constrained, particularly in relation to cross-border digital piracy.

The law needs to be strengthened to provide stronger digital enforcement mechanisms. Whilst Section 54 of the Act contemplates a *notice* and *take down* mechanism, the provision lacks specific timelines necessary to render it effective. The courts should be empowered to expressly grant website blocking orders, compel the deactivation of piracy domains, grant exparte injunctions. In such a digital age, regulators should also consider specialised digital monitoring and enforcement units to monitor piracy websites, online copyright abuse and digital content infringement.

Notably, the Act does not make provisions that regulate authorship of AI-generated works, ownership of machine generated content, AI-assisted creativity, or liability for AI-related infringement. Given the increasing role of artificial intelligence in the creative and intellectual property ecosystem, there is a critical need for statutory intervention in this regard.

*Trademark Protection under the Trademarks Act*

Trademark protection in Nigeria is governed by the Trademarks Act, Cap T13 LFN 2004. Under Section 5, registration confers on the proprietor the exclusive rights to use the mark

[1] Section 54 Copyright Act 2022

[2] Section 55-57 Copyright Act 2022

in relation to the goods for which it is registered. However, the Act is outdated as it does not expressly address issues like:

- *non- traditional marks (such as sound or motion marks);*
- *digital branding issues (domain names and social media handles)*
- *online infringement in e-commerce environments.*

Furthermore, Section 9 restricts registration to marks that are "*distinctive*", a concept that is increasingly strained in digital marketplaces characterized by algorithm-driven visibility, and keyword advertising. In other jurisdictions, these non- traditional marks are being tested. An example is **Sumitomo Rubber Industries Limited,** a major Japanese tyre manufacturer who sought to register an *olfactory mark*; a scent mark (*floral fragrance*) for its tyres and whilst Sumitomo may not have gotten the desired results, these non-traditional marks are being recognized in other jurisdictions, which shows the diversity of trademarks and adaptability to digital innovation.

Notably, currently before the National Assembly is the Trademarks (Repeal & Enactment) Bill, 2025 which presents a timely opportunity to modernise Nigeria's trademark framework by addressing issues including deficiencies in trademark licensing and assignment regime, digitalisation of trademark registration and administration and clear trademark exhaustion framework.

***Patents and Designs Act***

The Patents and Designs Act Cap P2 LFN 2004 governs the protection of inventions and industrial designs. In line with Section 1 of the Act, an invention is patentable if is it *new; results from inventive activity, constitutes an improvement upon a patented invention and capable of industrial application.* However, the Act does not contemplate: *software patents in any detailed manner, artificial intelligence- generated inventions and digital or algorithmic innovations.* Additionally, Section 6 vests patent rights in the patentee, raising complex questions in scenarios involving collaborative or AI-assisted innovation.

There is a need to amend the law to accommodate patentability of software inventions, strengthening of patent examination processes, enhanced training and capacity building for examiners, clarification of ownership and rights in employee created inventions.

***Digital transformation and the disruption of traditional IP Concepts***

The digital economy has not merely introduced new modes of exploitation of IP, it has fundamentally disrupted the conceptual foundations upon which traditional IP law is built. Core assumptions such as territoriality, identifiable ownership and centralized control of dissemination are increasingly incompatible with decentralized, data-driven, and algorithmically mediated environments. In Nigeria, this disruption is particularly pronounced due to the coexistence of **rapid technological adoption** and a **largely analogue legal framework**, creating significant doctrinal and enforcement gaps.

One of the defining features of digital technologies is the collapse of geographical boundaries. Works protected under Nigerian Law can now be *reproduced, distributed, and accessed* globally within seconds, often without the authorization of right holders. Section 15 of the Copyright Act states that copyright is infringed where a person, without the licence or authorization of the owner, performs any act restricted by copyright. These acts, as outlined in Section 9, include reproduction, communication to the public, and distribution. However, the practical application of these provisions becomes complex in digital contexts. For example, where an infringing website is hosted outside Nigeria but accessible within Nigeria, questions arise as to whether Nigerian courts can assert jurisdiction. Also, situations where multiple actors (*uploaders, platform operators, internet service providers*) are involved, identifying the primary infringer becomes difficult. Although, Nigerian courts have jurisdiction over matters arising within Nigeria[3], enforcement against foreign entities remains largely ineffective in practice. Furthermore, the decentralised nature of modern infringement, particularly through peer-to-peer networks and encrypted platforms, undermines traditional enforcement mechanisms such as **seizure** and **takedown.** Thus, while the statutory framework recognizes infringement in broad terms, it does not adequately address the transnational and technologically complex nature of digital piracy.

That being said, digital platforms, ranging from social media networks to e-commerce market places have become central intermediaries in the creation, dissemination, and monetization of content. These platforms often host vast quantities of user-generated content, some of which may infringe IP rights. A critical issue in modern IP law is the extent to which such intermediaries should be held liable for infringing content uploaded by users. The Copyright Act makes limited provision in this regard. While certain sections contemplate the role of service providers, the Act stops short of establishing a comprehensive safe harbour regime.

There is no clearly articulated notice and take down regime, counter notice mechanism, and statutory limitation of liability for complaint intermediaries. This creates a dual

[3] Section 251(1)(f) of the 1999 Constitution of the Federal Republic of Nigeria as amended

problem, **first**, rights holders face difficulties in securing timely removal of infringing content, as there are no standardized processes compelling platforms to act expeditiously, and **second**, platform operators face legal uncertainty as they may be exposed to liability without clear guidance on compliance obligations. This uncertainty may discourage investment in Nigeria's digital economy or lead to over- censorship of content to mitigate risk. The absence of a coherent intermediary liability framework stands in contrast to global best practices and represents a significant gap in Nigeria's IP ecosystem.

Artificial intelligence on the other hand introduces perhaps the most profound challenge to traditional IP doctrine. Nigerian copyright law, like most common law systems, is premised on the notion of **human authorship.** Under Section 28 of the Copyright Act, the author of a work is generally the person who creates it. In cases of employment, the employer may be deemed the owner of the copyright[4], subject to contractual arrangements. However, AI generated works disrupt this framework in several ways:

- ***Absence of a human creator*** *– where a work is generated autonomously by an AI system, it becomes unclear who qualifies as the "author".*
- ***Attribution of ownership*** *– should ownership vest in the programmer, the user, or the entity that trained the AI?*
- ***Training data concerns*** *– many AI systems are trained on large datasets that may include copyrighted works, raising questions of infringement at the input stage, rather than the output stage.*

Nigerian law does not currently provide explicit guidance on these issues. This creates uncertainty not only for creators and developers but also for investors seeking to commercialize AI-generated outputs. Moreover, the lack of clarity may place Nigeria at a disadvantage in the global AI economy, where jurisdictions are increasingly developing frameworks to address these issues. An example is the European Union, who passed the **European Union AI Act**. The Act is widely regarded as the most comprehensive AI-specific legislation. However, it is important to state that all provisions of the EU AI Act with the exception of Article 6, will only become effective in August 2026, while the remaining provisions become effective August 2027.

With the rise of blockchain technology and tokenized assets, including NFT's, new models for ownership and transfer of digital assets have been introduced. A key legal misconception both globally and within Nigeria is the assumption that ownership of a digital token equates to ownership of the underlying intellectual property. IP rights

[4] Section 29 Copyright Act

remain governed by traditional legal principles unless expressly transferred. Under Nigerian law, copyright ownership is governed by Sections 9 and 10 of the Act which defines the scope of rights and their transferability. Assignments of copyright must therefore comply with formal requirements, typically requiring written agreements. Tokenization raises several legal issues including:

- ***Separation of ownership layers*** *– a purchaser of an NFT may acquire a token but not the copyright in the underlying work.*
- ***Smart contracts and enforceability*** *– licensing terms embedded in block-chain based smart contracts may not satisfy formal legal requirements under Nigerian law; and*
- ***Jurisdictional ambiguity*** *– decentralized platforms operate across multiple jurisdictions, complicating enforcement and dispute resolution.*

In addition, tokenized systems often operate outside traditional regulatory oversight creating overlaps with financial regulation and raising questions about consumer protection. Nigeria's current IP framework does not directly address these developments, resulting in a fragmented and uncertain legal landscape.

The digital economy is increasingly driven by data, blurring the boundaries between IP and data governance. Innovations in sectors such as fintech, health tech, and digital marketing rely heavily on the collection and processing of personal and sensitive personal data. While IP law protects the outputs of creative and incentive activity, data protection law regulates the input, particularly where personal data is involved. The Nigeria Data Protection Act, 2023, introduces obligations relating to:

- *Lawful processing of personal data;*
- *Consent requirements;*
- *Data subject rights; and*
- *Cross border data transfers*

This creates several points of intersection with IP law including; licensing agreements; where IP exploitation involves personal data (e.g., user generated content platforms), compliance with data protection principles becomes essential. Another example is, commercialization constraints; data protection obligations may limit the extent to which data-driven IP assets can be monetized. The convergence of IP and data protection reflects a broader shift toward integrated regulation of the digital economy, requiring a more holistic approach to legal reform.

### *Crisis of Enforcement in a Digitally Networked Environment*

Beyond doctrinal challenges, digital transformation has exposed a deeper structural issue which is the inadequacy of traditional enforcement mechanisms. Enforcement under the Copyright Act relies on mechanisms like civil actions for infringement[5], criminal sanctions,[6] and seizure and forfeiture of infringing copies. These mechanisms are ill-suited to digital environments where infringing copies are intangible and infinitely reproducible, infringers may be anonymous or located outside Nigeria, evidence of infringement is often transient and technologically complex. Moreover, the regulators face capacity constraints, including limited access to digital forensic tools and insufficient technical expertise. The result is an **enforcement deficit**, where legal rights exist in theory but are difficult to enforce in practice. This undermines the economic value of IP and discourages investment in creative and innovative sectors.

Taken together, these developments illustrate a fundamental shift in the nature of intellectual property. From **territorial** to **transnational,** from **human-created** to **machine assisted**, from **centralized control** to **platform-mediated dissemination** and from **static assets to dynamic, data-driven value systems**. Nigeria's existing legal framework, while foundationally sound, is increasingly strained by these transformations. The challenge, therefore, is not merely to amend specific provisions, but to reconceptualize IP law in a manner that reflects the realities of a digital, interconnected, and innovation driven economy.

### *The National Intellectual Property Policy and Strategy – Structure and Significance*

*Legal and Institutional Framework*

The NIPPS was introduced as a policy framework to address longstanding structural deficiencies in Nigeria's IP ecosystem. Although, not a statute, it derives authority from the Federal Government's executive powers and is intended to guide legislative and institutional reform. The NIPPS has strategics objectives including: *to strengthen the legal framework for protection of intellectual property rights in Nigeria, strengthen the institutional framework for the administration and management of intellectual property rights in Nigeria, develop the required human resources for the administration, protection and commercialization, and enforcement of IP rights*. These amongst other objectives, will drive the implementation of the NIPPS.

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[5] Section 37 Copyright Act

[6] Sections 44- 46 Copyright Act

*The NIPPS is structured around several key pillars including*:

- **Legal Reform and Harmonization** – it recognizes the need to modernize Nigeria's IP laws to align with international standards, including obligations under the TRIPS Agreement, WIPO treaties and regional trade frameworks such as the AfCFTA.

- **Commercialization of IP** – perhaps the most transformative aspect of the NIPPS is its explicit emphasis on the commercialisation of IP. Historically, Nigeria's IP regime has focused on the recognition and enforcement of rights, with limited attention to their economic utilization. The NIPPS departs from this approach by positioning IP as a tradable and financeable asset class. This includes: **development of IP valuation frameworks** which would enable rights holders quantify the economic value of their assets; **promotion of IP-backed financing**, allowing IP rights to be used as collateral; and **encouragement of licensing, franchising, and technology transfer arrangements**. These objectives align closely with the functions of the National Office for Technology Acquisition and Promotion (NOTAP), established under the NOTAP Act, which regulates technology transfer agreements and ensures that such agreements are not detrimental to Nigeria's economic interests. By integrating IP into financial and commercial systems, the NIPPS seeks to unlock the latent economic value of Nigeria's creative and innovative sectors.

- **Institutional Coordination and Governance** – a longstanding weakness of Nigeria's IP system has been the fragmentation of institutional responsibilities. Different aspects of IP administration are handled by separate bodies including the Nigerian Copyright Commission ("NCC"), Trademarks Registry, Patents and Designs Registry, and NOTAP. The NIPPS however seeks to address this fragmentation by **promoting greater institutional coordination and governance coherence**. This will be done by clarifying the roles and mandates of existing institutions, improving inter-agency collaboration, and establishing mechanisms for policy alignment and information sharing. Such coordination is essential in the digital context, where IP issues often intersect with data protection, competition law, and financial regulation.

- **Enforcement and Compliance Mechanisms** – the NIPPS recognises that the effectiveness of any IP system ultimately depends on its enforceability. While the

Copyright Act 2022 provides for civil remedies[7] and criminal sanctions[8], enforcement in practice remains week. To address this, the NIPPS proposes *enhanced capacity building and increased funding for enforcement agencies*; *adoption of technology-driven enforcement tools including digital monitoring systems*; strengthening of border measures to combat the importation of infringing goods; increased collaboration with international enforcement bodies. However, the policy does not yet provide detailed mechanisms for addressing online infringement, particularly in relation to intermediary liability – an omission that remains a critical gap.

***Critical Evaluation of the NIPPS in the Digital Context***

While the NIPPS represents a significant step forward, several concerns arise:

- **Non-Binding Nature of the Policy** – as a policy document, the NIPPS lacks direct legal enforceability, its effectiveness therefore depends on *subsequent legislative amendments, administrative implementation, political will.*

- **Incomplete Address of Digital Realities –** although the policy acknowledges digital transformation, it does not comprehensively address the intermediary liability, AI-generated works, blockchain-based IP systems.

- ***Implementation Risks*** – whilst implementation committees have been set up (the Inter-Ministerial Steering Committee and Inter-Agency Coordination Group) to oversee the actualization of the NIPPS, Nigeria has historically faced challenges in implementing policy frameworks without adequate funding, institutional capacity, stakeholder engagement, the NIPPS risks remaining aspirational.

***Reimagining IP as Economic Infrastructure***

The most profound implication of the NIPPS is the reconceptualization of IP as economic infrastructure. This shift has several dimensions including:

- *Integration with financial systems* – recognising IP as a bankable asset enables collateralisation of IP rights, development of IP investment markets, increased access to finance for creators and innovators.

[7] Section 37 Copyright Act
[8] Section 44-46 Copyright Act

- *Convergence with other regulatory frameworks* – IP law increasingly intersects with the NDPA (in-data-driven innovation); competition law (in licensing and market dominance); financial regulation (in tokenisation and digital assets).

***Conclusion***

The reimagination of IP in Nigeria's digital economy cannot remain a matter of policy articulation alone. As this article has demonstrated, while the NIPPS represents a significant conceptual shift, reframing IP from a purely legal entitlement to a driver of economic value, as well as its transformative potential will ultimately be measured by the extent to which it is translated into **binding legal frameworks, institutional efficiency** and **commercially viable systems**.

The recommendations advanced in this article underscore a central point; Nigeria's current IP regime is not deficient in recognition of its rights, but in *operational effectiveness* and *economic integration*. Legislative reform is therefore not optional, it is imperative. The continued reliance on outdated statutes which currently do not adequately address or reflect the key considerations in the global ecosystem, renders the IP system increasingly irrelevant in a technology-driven global marketplace. Equally, institutional reform must accompany legislative change. The enforcement challenges identified ranging from limited technical capacity to weak inter-agency coordination highlight a system issue; the gap between legal rights and their practical enforceability. Without strengthening institutions, enhancing judicial expertise, and deploying technology-driven enforcement mechanisms, intellectual property rights will remain largely theoretical.

Perhaps most critically, the development of function IP markets must become a national priority. The NIPPS rightly emphasises the commercialisation of IP, yet, without robust valuation frameworks, investor confidence, and financing mechanisms, IP will continue to be underutilised as an economic asset. In a digital economy where value is increasingly intangible, the failure to monetise IP represents a missed opportunity for growth, innovation, and global competitiveness.

The urgency of reform is further underscored by the convergence of IP with adjacent regulatory regimes, including data protection, competition law, and financial regulation. As digital business models evolve, a fragmented regulatory approach is no longer sustainable. What is required is a coherent, integrated legal ecosystem, capable of addressing the complexities of modern innovation. Ultimately, the question is not whether Nigeria recognises the importance of IP, but whether it is prepared to operationalise that recognition in a manner that is responsible to digital realities. The

NIPPS provides a roadmap; however, a roadmap without implementation is merely inspirational.

Nigeria now stands at a critical inflection point. With deliberate legislative action, institutional strengthening, and a commitment to embedding IP within its broader economic strategy, the country can unlock full value of its creative and innovative sectors. Conversely, failure to act decisively risks entrenching existing inefficiencies and ceding competitive advantage in an increasingly knowledge- drive global economy.