

**UNDERSTANDING  
INTELLECTUAL PROPERTY  
RIGHTS IN NIGERIA: KEY  
CONSIDERATIONS FOR  
BUSINESSES**



# ARTICLE

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*"IP is more than protection—it's a tool for innovation and business growth in Nigeria."*

In today's global economy, intellectual property is a crucial asset for businesses, especially in emerging markets like Nigeria. Understanding and effectively managing IP rights is essential for fostering innovation, establishing and securing competitive advantage, and driving sustainable growth.

This article examines the laws governing intellectual property rights in Nigeria, provides a detailed explanation of these rights, and highlights key considerations for businesses navigating this complex landscape.

## WHAT ARE INTELLECTUAL PROPERTY RIGHTS?

Intellectual property rights are legal rights that protect creations of the mind. These rights grant the creators exclusive privileges over their inventions, literary and artistic expressions, distinctive designs, identifying symbols, brand names, and visual or auditory elements employed in commercial activities.

In Nigeria, these rights are primarily governed by various statutes; each addressing a distinct category of intellectual property. Understanding these laws is essential for businesses aiming to protect their innovations and maintain their brand value.



### THE PATENTS AND DESIGNS ACT CAP P3 LFN 2004:



### THE DESIGNS ACT CAP P3 LFN 2004:

Industrial designs protect the purely aesthetic or ornamental aspects of a product. Registration of an industrial design confers exclusive rights upon the owner for an initial period of five (5) years, with the possibility of renewal for two additional five-year terms, providing a maximum protection period of fifteen (15) years.

To be registrable, an industrial design must be demonstrably novel and possess originality. This legal right effectively prevents the unauthorized reproduction or imitation of the visual design of a product, thereby safeguarding its unique market identity.

In Nigeria, businesses operating within sectors such as consumer goods, fashion apparel and accessories, furniture manufacturing, and product packaging can strategically leverage industrial design protection to legally safeguard the distinctive visual attributes that differentiate their product offerings in the marketplace.

### TRADEMARKS ACT: CAP T13, LAWS OF THE FEDERATION OF NIGERIA (LFN) 2004, AS AMENDED BY THE BUSINESS FACILITATION (MISCELLANEOUS PROVISIONS) ACT 2023.

### THE PATENTS ACT CAP P3 LFN 2004:

A patent grants the inventor an exclusive monopoly to commercially exploit their invention for a defined period of twenty (20) years, commencing from the date of filing the patent application. This exclusivity is contingent upon the regular payment of statutorily prescribed annual fees.

To qualify for patentability under Nigerian law, an invention must demonstrably exhibit novelty (i.e., it must not have been previously disclosed to the public anywhere in the world), involve an inventive step (meaning it must not be obvious to a person skilled in the relevant technical field), and possess the capacity for industrial application (i.e., it can be manufactured or used in any kind of industry).

These applications undergo substantive examination by the Patents and Designs Registry to ascertain compliance with the statutory requirements. Furthermore, the Act encompasses provisions for patents of addition, which relate to improvements or modifications of existing patented inventions, and the mechanism of compulsory licensing, which, under specific circumstances, allows third parties to exploit a patented invention without the patent holder's consent, typically in the public interest.

Trademarks are indispensable assets for businesses, serving as crucial identifiers that distinguish their goods or services from those offered by competitors. These distinctive marks can take various forms, including words, logos, symbols, distinctive color combinations, and even non-conventional marks such as sounds and smells (although the registration of the latter is less common and subject to stringent proof of distinctiveness).



**TRADEMARKS ACT: CAP T13, LAWS OF THE FEDERATION OF NIGERIA (LFN) 2004, AS AMENDED BY THE BUSINESS FACILITATION (MISCELLANEOUS PROVISIONS) ACT 2023.**

**Trademark Registration:** The Trademarks Registry, a specialized division within the relevant government agency, maintains a comprehensive register of trademarks. Registration under this Act grants the trademark owner exclusive rights to use the mark in relation to the goods or services for which it is registered.

This exclusivity extends to preventing others from using identical or deceptively similar marks that are likely to cause confusion in the minds of consumers. Prior to filing a trademark application, conducting thorough trademark searches within the Registry's database is an absolutely crucial step. This proactive measure helps to identify any existing conflicting marks, thereby mitigating the risk of application rejection and potential future legal disputes.

Trademark infringement occurs when an unauthorized party uses a registered trademark or a deceptively similar mark in a manner that is likely to cause confusion, deception, or mistake among consumers regarding the origin, sponsorship, or approval of goods or services. Such infringement can lead to significant legal repercussions, including court-ordered injunctions to cease the infringing activity and the imposition of monetary damages to compensate the trademark owner for losses suffered.

A notable instance emphasizing the importance of trademark protection in Nigeria is the ongoing controversy involving ZAP Africa, a well-established cryptocurrency exchange and non-custodial wallet platform that commenced operations under the "ZAP" brand in April 2023, and Paystack, a prominent and widely recognized Nigerian fintech company.

In March 2025, Paystack announced the launch of its new consumer-facing mobile application branded "Zap by Paystack," designed to facilitate seamless bank transfers for individuals and visitors in Nigeria. Almost immediately following this announcement, ZAP Africa publicly contested Paystack's adoption of the "ZAP" name. ZAP Africa asserted that "ZAP" constitutes its legally protected and trademarked brand name, not only within Nigeria but also across the broader African continent.

The company raised significant concerns regarding the high potential for brand confusion among users, particularly within the closely related domains of finance and cryptocurrency, where consumer trust and clear brand differentiation are paramount.

However, the available information suggests that ZAP Africa had proactively filed for trademark registration of "ZAP" in Class 35, encompassing a broad range of services including advertising, business management, and retail. This unfolding situation serves as a stark reminder of the critical importance of conducting exhaustive trademark clearance searches before launching any new product or service, and the potential legal and reputational risks associated with adopting a brand name that is already in use or has been registered by another entity, especially within related industries.

The outcome of this dispute will likely hinge on a meticulous examination of the respective trademark filings, the scope of services covered by each registration, and the potential for consumer confusion in the Nigerian marketplace.



**THE COPYRIGHT ACT 2022**



**THE NATIONAL OFFICE FOR TECHNOLOGY ACQUISITION AND PROMOTION (NOTAP) ACT CAP N62 LFN 2004**

The NOTAP Act establishes the National Office for Technology Acquisition and Promotion (NOTAP), a crucial government agency mandated to regulate the transfer of foreign technology into Nigeria.

The Copyright Act provides automatic legal protection to a wide spectrum of original creative works immediately upon their creation in a tangible form. This protection does not require formal registration, although a voluntary notification system exists at the Nigerian Copyright Commission, which can serve as useful prima facie evidence of copyright ownership.

The Act provides a comprehensive, though not exhaustive, list of works eligible for copyright protection, including literary works (such as books, articles, and computer programs), artistic works (like paintings, sculptures, and photographs), musical works, dramatic works, cinematographic films, and sound recordings.

**Exclusive Rights and Infringement:** Copyright owners are granted a bundle of exclusive rights, including the right to reproduce their work, to distribute copies of their work to the public, to perform their work publicly (in the case of musical and dramatic works), and to make adaptations or derivative works based on their original creation.

Copyright infringement occurs when any of these exclusive rights are exercised by an unauthorized party without the permission of the copyright owner. Such infringement is considered a serious offense under Nigerian law, and remedies available to copyright owners include seeking injunctive relief to stop the infringing activity, claiming monetary damages to compensate for losses, and even the pursuit of criminal cases against the infringer.



## THE NATIONAL OFFICE FOR TECHNOLOGY ACQUISITION AND PROMOTION (NOTAP) ACT CAP N62 LFN 2004

The primary objective of this regulatory oversight is to ensure that such technology transfers are conducted on terms that are fair, reasonable, and ultimately beneficial to the Nigerian economy, fostering the development of indigenous technological capabilities.

**Technology Transfer Agreements:** Any agreement involving the transfer of foreign technology to a Nigerian entity, such as licensing agreements, technical assistance agreements, and consultancy agreements involving the provision of foreign technical expertise, must be registered with NOTAP.

The agency undertakes a thorough scrutiny of these agreements to ensure compliance with Nigerian laws, relevant government policies, and international best practices. NOTAP's review process typically assesses aspects such as the appropriateness of the technology for Nigeria's needs, the fairness of the financial terms, provisions for the training of Nigerian personnel, and the promotion of local research and development. By actively regulating technology transfer, NOTAP plays a pivotal role in promoting the growth and advancement of indigenous technology within Nigeria.

### ESSENTIAL INTELLECTUAL PROPERTY STRATEGIES FOR NIGERIAN BUSINESSES

To effectively transform their innovations and brand identities into enduring and legally protected assets, Nigerian businesses must adopt a proactive and strategic approach to intellectual property management.

**Seek Expert Legal Advice:** Navigating the intricacies of intellectual property law can be a complex undertaking. Businesses should prioritize and proactively seek advice from experienced intellectual property lawyers and consultants to ensure that their IP rights are properly protected, managed, and enforced in accordance with the relevant Nigerian laws and international best practices.

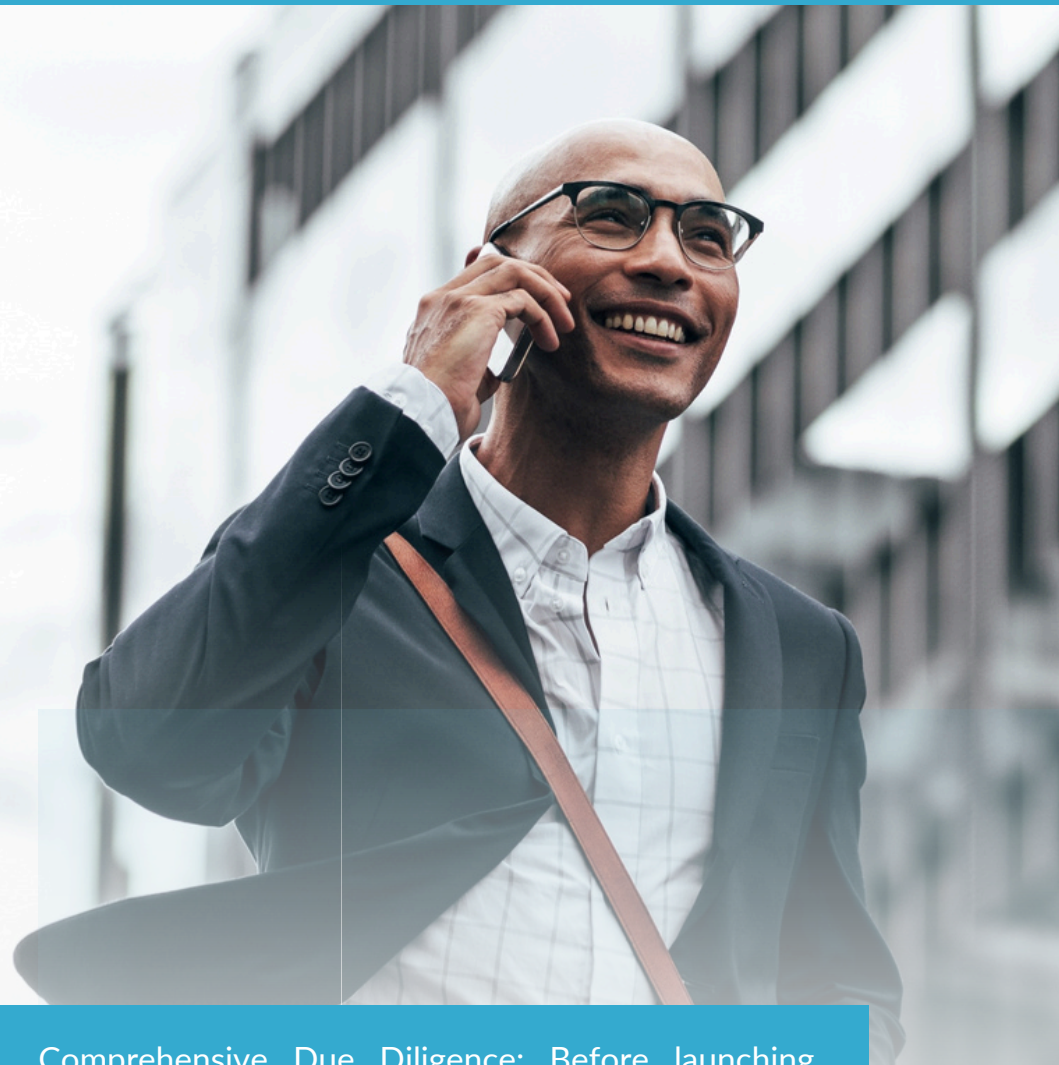
**Prompt Registration of IP Rights:** Businesses should prioritize the timely registration of their IP rights with the relevant Nigerian authorities. This includes registering trademarks for their brand names and logos at the Nigerian Trademarks Registry, seeking patent protection for their novel inventions at the Patents and Designs Registry, and utilizing the notification system at the Nigerian Copyright Commission for their creative works. Formal registration provides a clear legal record of ownership and significantly strengthens the ability to enforce these rights against infringers.

**Enforcement of Intellectual Property Rights:** Legal protection is only meaningful if it is actively enforced. Businesses must be prepared to take decisive legal action against any unauthorized use or infringement of their IP assets. This may involve initiating legal proceedings, such as seeking injunctions to stop infringing activities and claiming damages to recover financial losses. A proactive enforcement strategy sends a clear message that the business values and will protect its intellectual property.

#### CONCLUSION:

The ongoing ZAP Africa/Paystack situation serves as a potent reminder of the tangible consequences of neglecting intellectual property considerations and underscores the imperative for proactive and informed IP management for all businesses operating in Nigeria.

Intellectual property rights are a critical asset for businesses operating in Nigeria. By understanding and effectively managing their IP rights, businesses can foster innovation, build strong brands, and gain a competitive edge in the marketplace. As Nigeria's economy continues to grow, prioritizing IP protection will be essential for driving sustainable economic development and long-term business success.



**Comprehensive Due Diligence:** Before launching new products, adopting brand names, or entering into business partnerships, conducting thorough IP due diligence is paramount. This includes meticulously searching existing IP databases maintained by the relevant registries to ensure that the proposed product, brand name, or technology does not infringe upon the existing rights of others. As illustrated by the ZAP Africa/Paystack situation, neglecting this crucial step can lead to costly and time-consuming legal disputes.

Furthermore, proper due diligence is especially critical when licensing technology from foreign entities, and strict adherence to the requirements of the NOTAP Act is essential in such transactions.

**Strategic Technology Transfer and Licensing:** Businesses involved in technology transfer, whether acquiring foreign technology or licensing their own innovations, must approach negotiations with meticulous care to ensure that their IP rights are adequately protected. A clear understanding of the role and requirements of NOTAP in regulating technology transfer is indispensable for businesses seeking to acquire foreign technology legally and effectively. Similarly, when licensing their own IP, businesses should ensure that licensing agreements clearly define the scope of the license, usage restrictions, and enforcement mechanisms.

**Awareness and Education:** Businesses should invest in educating their employees about IP rights and the importance of protecting them. Regular IP audits can help identify potential risks and ensure that IP assets are properly managed.

**Adapting to the Digital Landscape:** The rise of e-commerce and digital content distribution presents new challenges for IP protection. Businesses should implement measures to protect their IP rights in the online environment, such as using digital rights management (DRM) technologies and monitoring online marketplaces for infringements.