African Regional Framework for the Protection of Intellectual Property Rights: A Nigerian Perspective

Enemaku Obaje* and Taiye James Alabi**

Abstract

Intellectual property protection in Africa is administered through a fragmented patchwork of regional and national systems, with the African Regional Intellectual Property Organization (ARIPO) serving predominantly anglophone states and the Organisation Africaine de la Propriété Intellectuelle (OAPI) serving francophone states. This fragmentation creates significant barriers to cross-border IP enforcement, increases costs for businesses seeking multi-jurisdictional protection, and undermines innovation and trade across the continent. Adopting the doctrinal method, the article finds that Nigeria's continued absence from regional IP frameworks, combined with outdated domestic legislation (particularly the Patents and Designs Act of 1970 and the Trade Marks Act of 1965), places Nigeria at a structural disadvantage in the emerging AfCFTA single market. This article concludes that Nigeria must prioritize legislative modernization, accession to the Madrid Protocol, and active engagement with the AfCFTA IP Protocol negotiations to avoid permanent marginalization in Africa's evolving IP architecture.

Keywords: AfCFTA, ARIPO, Intellectual Property, OAPI, Patents and Designs Act

1. Introduction

Nigeria, Africa's largest economy and most populous nation, stands conspicuously outside both of the continent's regional intellectual property organizations. This deliberate non-alignment carries significant consequences for IP protection, enforcement, and trade across West Africa and beyond. As the African Continental Free Trade Area (AfCFTA) moves toward implementing its Protocol on Intellectual Property Rights, Nigeria faces a defining choice: whether

* Prof. Enemaku Obaje, Professor of Law, Faculty of Law, Federal University Lokoja, Lokoja, Kogi State.

** Taiye James Alabi, Esq, Senior Legal Officer, Kogi State Ministry of Justice, Lokoja, Kogi State.

to continue operating in IP isolation or to integrate into the emerging continental architecture that promises to reshape how innovation, creativity, and traditional knowledge are protected from Cairo to Cape Town.

The African IP landscape is split between two regional organizations. ARIPO serves predominantly Anglophone states, while OAPI serves francophone states. This division leaves roughly eighteen countries, including Nigeria, South Africa, and Egypt, entirely outside both systems.[1] The AfCFTA IP Protocol, adopted in February 2023, represents the boldest attempt yet to bridge these fragmented regimes.[2] For Nigerian lawyers and academics, understanding these overlapping frameworks is no longer optional. It is essential for advising clients on cross-border transactions, technology transfer, and the enforcement of rights across Africa's emerging single market.

This article examines each of these regional frameworks in detail, assesses Nigeria's domestic IP legislation and its interaction (or non-interaction) with these regional systems, and offers evidence-based recommendations for reform. The article proceeds in six parts. Part 2 examines ARIPO and its three foundational protocols. Part 3 analyses OAPI's supranational model under the Bangui Agreement. Part 4 addresses the AfCFTA IP Protocol and the emerging continental harmonization agenda. Part 5 reviews Nigeria's domestic IP framework and its regional disconnection. Part 6 offers recommendations and a future outlook, and Part 7 concludes.

2. The Aripo Framework and Its Three Foundational Protocols

2.1 Origins and Institutional Structure

The African Regional Intellectual Property Organization traces its origins to a 1972 WIPO regional seminar in Nairobi, Kenya, where representatives of English-speaking African countries endorsed a plan to pool resources for IP administration.[3] A conference of nineteen

---

1 JA Ogbodo, 'Beyond the "Spaghetti Bowl": Assessing the Role of the AfCFTA Protocol on Intellectual Property in Africa's Complex Regulatory Environment' (2025) 20(5) *Journal of Intellectual Property Law & Practice* 308.

2 Decision of the Assembly of the African Union, 36th Ordinary Session, Addis Ababa, Ethiopia, 18–19 February 2023, Assembly/AU/Dec.875(XXXVI).

3 ARIPO, 'Our History' (ARIPO Official Website) <https://www.aripo.org/browse/about-us/our-history> accessed 18 February 2026.

invited states in Addis Ababa in June 1974 produced a draft agreement, and the Lusaka Agreement was adopted on 9 December 1976 at a Diplomatic Conference in Zambia.[4] Six countries, namely Ghana, Kenya, Mauritius, Somalia, Uganda, and Zambia, were the original signatories. The Agreement entered into force on 15 February 1978.[5]

Originally named the Industrial Property Organization for English-speaking Africa (ESARIPO), the organization underwent two name changes. In December 1985, the Lusaka Agreement was amended to become the African Regional Industrial Property Organization and to open membership to all UNECA and OAU member states. In 2005, the word "Industrial" was replaced with "Intellectual" to reflect the organization's expanded mandate.[6] ARIPO's headquarters, initially in Nairobi, moved to Harare, Zimbabwe in 1982, where it remains today.[7] The organization's stated objectives under Article III of the Lusaka Agreement include pooling member states' financial and human resources, promoting harmonization of IP law, and facilitating technological advancement for economic development.

As of 2025, ARIPO has 22 member states: Botswana, Cabo Verde, Eswatini, The Gambia, Ghana, Kenya, Lesotho, Liberia, Malawi, Mauritius, Mozambique, Namibia, Rwanda, São Tomé and Príncipe, Seychelles, Sierra Leone, Somalia, Sudan, Tanzania, Uganda, Zambia, and Zimbabwe.[8] Cabo Verde became the most recent member in July 2022. Notably, nine countries attend ARIPO proceedings as observers, including Nigeria, South Africa, Egypt, Ethiopia, and Angola, none of which have acceded to the Agreement.[9]

---

4 Lusaka Agreement on the Creation of the African Regional Intellectual Property Organization (adopted 9 December 1976, entered into force 15 February 1978).

5 ibid.

6 ARIPO, 'Our History' (n 3).

7 ibid.

8 ARIPO, 'Member States' (ARIPO Official Website) <https://www.aripo.org/member-states> accessed 18 Februaray 2026.

9 ibid.

2.2 The Harare Protocol on Patents and Industrial Designs

The Harare Protocol, adopted on 10 December 1982 and entering into force on 25 April 1984, is ARIPO's most widely ratified instrument.[10] It empowers the organization to grant patents and register utility models and industrial designs on behalf of contracting states through a single-application system. An applicant files one application (Form 3) designating the specific member states where protection is sought. ARIPO examines the application and, upon acceptance, transmits it to each designated state, which has four months to refuse the application on grounds of non-conformity with national law.[11] Silence within this period constitutes deemed acceptance. Patent protection runs for 20 years from the filing date, while industrial designs are protected for up to 15 years following the 2019 amendments.[12] All 22 ARIPO member states except Somalia are contracting parties to the Harare Protocol, with Mauritius having deposited its instrument of accession in May 2025.

The Harare Protocol was amended in 1994 to incorporate the Patent Cooperation Treaty (PCT) system, enabling PCT international applications to designate ARIPO member states. Significant amendments in November 2019, effective 1 January 2020, extended industrial design protection from ten to fifteen years and streamlined various procedural requirements.[13]

A key feature of the Harare Protocol is the relationship between ARIPO-granted rights and national law. Under Section 3(4), where an ARIPO-granted patent or design conflicts with a right granted by a designated state, the ARIPO right "shall, to the extent of such conflict, have no effect" in that state.[14] This creates a hierarchy that places national rights above ARIPO rights in cases of conflict, an important

---

10 Harare Protocol on Patents and Industrial Designs Within the Framework of the African Regional Intellectual Property Organization (adopted 10 December 1982, entered into force 25 April 1984).

11 Harare Protocol, s 3(5)–(6).

12 Adams & Adams, 'ARIPO – Amendments to the Harare Protocol on Patents and Industrial Designs' (2020) <https://www.adams.africa/intellectual-property/aripo-amendments-to-the-harare-protocol-on-patents-and-industrial-designs/> accessed 18 February 2026.

13 ibid.

14 Harare Protocol, s 3(4).

safeguard for national sovereignty but one that introduces uncertainty for rights holders.

2.3 The Banjul Protocol on Marks

Adopted on 19 November 1993 in Banjul, The Gambia, and entering into force on 6 March 1997, the Banjul Protocol governs the registration of trademarks through ARIPO.[15] It has fewer contracting states than the Harare Protocol. Only thirteen states are parties as of 2025: Botswana, Cabo Verde, The Gambia, Eswatini, Lesotho, Liberia, Malawi, Mozambique, Namibia, São Tomé and Príncipe, Tanzania, Uganda, and Zimbabwe.[16] A single application covering multiple classes (under the Nice Classification) can designate any contracting state. Designated states have twelve months to examine and potentially refuse the application based on non-conformity with national law.[17]

A critical weakness of the Banjul Protocol is with regards to enforceability. There is no substantive examination at the ARIPO level for trademarks; only formal examination is conducted.[18] More significantly, only a handful of contracting states, namely Botswana, Liberia, Malawi, Mozambique, Namibia, São Tomé and Príncipe, and Zimbabwe, have incorporated the Protocol's provisions into their national legislation.[19] This gap was starkly exposed by the Court of Appeal of Tanzania's judgment on 26 September 2025 in *Lakairo Industries Group & Others v Kenafric Industries & Others* (Civil Appeal No. 593 of 2022),[20] which held that ARIPO trademark

---

[15] Banjul Protocol on Marks Within the Framework of the African Regional Intellectual Property Organization (adopted 19 November 1993, entered into force 6 March 1997).

[16] Adams & Adams, 'Trade Marks, Patents & Copyright in ARIPO' (Adams & Adams Official Website) <https://www.adams.africa/works/aripo/> accessed 18 February 2026.

[17] Banjul Protocol, s 4.

[18] Spoor & Fisher, 'Filing Intellectual Property in Africa with ARIPO and OAPI' (2022) <https://spoor.com/filing-intellectual-property-ip-in-africa-with-aripo-and-oapi/> accessed 18 February 2026.

[19] ibid.

[20] *Lakairo Industries Group & Others v Kenafric Industries & Others*, Civil Appeal No. 593 of 2022 (Court of Appeal of Tanzania, 26 September 2025); Abu-Ghazaleh Intellectual Property, 'Court of Appeal of Tanzania Rules on Enforceability of ARIPO Trademarks' (2025) <https://www.agip.com/News/en/news/23504> accessed 18 February 2026.

registrations designating mainland Tanzania are not enforceable because Tanzania never domesticated the Banjul Protocol into its Trade and Service Marks Act (Cap 326).

A major revision of the Banjul Protocol, effective 1 March 2026, introduces a streamlined four-part legal structure, formal recognition of "ARIPO Marks," and stricter opposition periods.[21]

2.4 The Swakopmund Protocol on Traditional Knowledge and Folklore

Adopted on 9 August 2010 at a Diplomatic Conference in Swakopmund, Namibia, and entering into force on 11 May 2015, this Protocol was the product of ten years of intensive consultations.[22] It protects holders of traditional knowledge against infringement and protects expressions of folklore against misappropriation. The Protocol vests rights in local and traditional communities, mandates prior informed consent for access to protected traditional knowledge, and requires equitable benefit-sharing when traditional knowledge is commercially exploited.[23] Nine states are currently contracting parties: Botswana, Cabo Verde, Malawi, Namibia, Rwanda, The Gambia, Liberia, Zambia, and Zimbabwe.[24]

The Swakopmund Protocol is significant as one of the first regional instruments specifically designed to protect traditional knowledge and cultural expressions, filling a gap that international negotiations at the WIPO Intergovernmental Committee had not yet addressed.[25] WIPO Director General Francis Gurry described it as "an historic step for

---

[21] Adams & Adams, 'ARIPO's Overhauled Trade Mark System Goes Live on 1 March 2026' (2026) <https://www.adams.africa/aripo/aripos-overhauled-trade-mark-system-goes-live-on-1-march-2026/> accessed 18 February 2026.

[22] Swakopmund Protocol on the Protection of Traditional Knowledge and Expressions of Folklore (adopted 9 August 2010, entered into force 11 May 2015).

[23] Swakopmund Protocol, ss 7–9.

[24] ARIPO, 'Traditional Knowledge' (ARIPO Official Website) <https://www.aripo.org/ip-services/traditional-knowledge> accessed 18 February 2026.

[25] WIPO, 'Swakopmund Protocol on the Protection of Traditional Knowledge and Expressions of Folklore (ARIPO)' (WIPO Traditional Knowledge) <https://www.wipo.int/en/web/traditional-knowledge/w/tklaws/article_0044> accessed 18 February 2026.

ARIPO's member states, and a significant milestone in the evolution of intellectual property."[26]

2.5 Nigeria's Conspicuous Absence from ARIPO

Nigeria is not a member of ARIPO and participates only as an observer.[27] Several interrelated factors explain this position. First, Nigeria's status as Africa's largest economy with an established (if underfunded) national IP infrastructure reduces the practical incentive to join an organization originally designed to help smaller countries that lacked capacity for independent IP administration.[28] Second, ARIPO was created for countries with "dependent" IP legislation inherited from the United Kingdom; Nigeria had already developed more autonomous IP legislation.[29] Third, the well-documented enforceability problems with ARIPO trademark registrations, dramatically illustrated by the *Lakairo* decision, serve as a powerful deterrent. Fourth, Nigeria's common law tradition, which requires international treaties to be domesticated through national legislation before they have domestic effect under Section 12 of the 1999 Constitution, creates structural caution about joining systems where enforceability depends on each member state's domestic implementation.[30]

2.6 Key Disputes under ARIPO

ARIPO's Board of Appeal, operational since 2001, issued its first decision on 30 August 2007 in *Sanitam Services (EA) Ltd v ARIPO*,[31] concerning the removal of Patent No. AP 773 from the register for non-payment of maintenance fees. The Board found both parties at fault: the applicant for late payments and ARIPO for failing to send

---

[26] WIPO, 'WIPO Director General Welcomes Moves to Enhance Protection of Traditional Knowledge & Folklore in Africa' (Press Release, 10 August 2010) <https://www.wipo.int/pressroom/en/articles/2010/article_0028.html> accessed 18 February 2026.

[27] ARIPO, 'Member States' (n 8).

[28] Flora IP, 'ARIPO Under AfCFTA: Should Nigeria Join or Not?' (8 May 2020) <https://www.floraip.com/2020/05/ 08/aripo-under-afcfta-should-nigeria-join-or-not/> accessed 18 February 2026.

[29] ibid.

[30] Constitution of the Federal Republic of Nigeria 1999 (as amended), s 12(1).

[31] *Sanitam Services (EA) Ltd v ARIPO*, ARIPO Board of Appeal Decision (30 August 2007); C Khan, 'ARIPO Board of Appeal Issues First Patent Decision' (2007) 7(10) *Without Prejudice* 1.

reminders as required under Rule 21(3) of the Harare Protocol Regulations. The Board ordered the patent reinstated in Kenya and Uganda.[32] The Kenyan Industrial Property Tribunal separately held that it lacks jurisdiction to hear applications to revoke ARIPO-granted patents, thereby raising significant questions about the relationship between national courts and ARIPO-granted rights.[33] These cases, alongside the *Lakairo* decision in Tanzania, reveal ongoing jurisdictional and enforceability challenges inherent in the ARIPO system.

3. The OAPI Framework and Its Supranational Model

3.1 Origins and Membership

The Organisation *Africaine de la Propriété Intellectuelle* adopts a fundamentally different approach to regional IP administration. Its predecessor, the Office *Africain et Malgache de la Propriété Industrielle* (OAMPI), was established on 13 September 1962 through the Accord de Libreville, signed by twelve heads of state of former French colonies.[34] Following Madagascar's withdrawal in 1974, the remaining members adopted the Bangui Agreement on 2 March 1977 in the Central African Republic, creating OAPI. The Agreement entered into force on 8 February 1982.[35]

OAPI is headquartered in Yaoundé, Cameroon, and currently has 17 member states: Benin, Burkina Faso, Cameroon, Central African Republic, Chad, Comoros, Congo (Republic), Côte d'Ivoire, Equatorial Guinea, Gabon, Guinea, Guinea-Bissau, Mali, Mauritania, Niger, Senegal, and Togo.[36] While predominantly francophone, the membership includes lusophone Guinea-Bissau and formerly hispanophone Equatorial Guinea.

---

[32] ibid.

[33] WIPO Magazine, 'IP Litigation in Africa' (2010) WIPO Magazine No 1 <https://www.wipo.int/wipo_magazine/ en/2010/01/article_0006.html> accessed 18 February 2026.

[34] OAPI, 'History' (OAPI Official Website) <https://oapi.int/en/presentation/ historical/> accessed 18 February 2026.

[35] WIPO Magazine, 'IP Litigation in Africa' (n 33).

[36] OAPI, 'Bangui Agreement' (OAPI Official Website) <https://oapi.int/en/legal-framework/bangui-agreement/> accessed 18 February 2026.

3.2 The Bangui Agreement and Its Revisions

The Bangui Agreement has been revised twice: in February 1999 (entering into force on 28 February 2002) to align with the TRIPS Agreement,[37] and in December 2015 in Bamako, Mali. The 2015 revisions entered into force in phases: Annexes VI through X from November 2020, Annexes III through V from January 2022, and Annexes I and II on 1 January 2025.[38] The Agreement comprises ten annexes covering patents, utility models, trademarks, industrial designs, trade names, geographical indications, literary and artistic property, unfair competition, layout designs of integrated circuits, and plant variety protection.[39]

The 2015 revision brought several major changes. For patents, substantive examination was introduced for the first time (previously only formal examination was conducted), along with a post-publication opposition mechanism and divisional application procedures.[40] For trademarks, multiclass applications, sound and audiovisual marks, and collective certification marks were introduced, and the opposition period was shortened from six to three months and moved to a pre-grant stage.[41] The revision also implemented enhanced border measures against counterfeiting and confirmed member state courts' jurisdiction over the validity of IP rights.

3.3 OAPI as a Unique Supranational Office

OAPI is globally unique in operating as the national IP office for all 17 member states.[42] Member states do not maintain their own national IP

---

37 Agreement of February 24, 1999, Revising the Bangui Agreement of March 2, 1977, on the Creation of an African Intellectual Property Organization (entered into force 28 February 2002).

38 Inventa, 'Bangui Agreement: A Summary of The Essential Changes' (2024) <https://inventa.com/ip-news-insights/opinion/bangui-agreement-summary-essential-changes> accessed 18 February 2026.

39 ibid.

40 ibid.

41 ibid.

42 ME Mpame, 'Regional Intellectual Property Integration in Developed and Developing Countries: The Cases of the European Patent Office (EPO) and the African Intellectual Property Organization (OAPI) Patent Systems' (2019) *SSRN Electronic Journal* <https://papers.ssrn.com/sol3/papers.cfm?abstract_ id=3436851> accessed 18 February 2026.

offices or national IP legislation. Upon joining, member states waive the right to national filing, and the Bangui Agreement itself serves as the governing IP law in each jurisdiction.[43] A single application filed with OAPI creates automatic protection across all 17 member states. It is not possible to designate individual countries, and member states cannot refuse protection.[44] This stands in contrast to ARIPO's designation-based model.

Judicial decisions rendered in one OAPI member state regarding the validity of IP titles under the Bangui Agreement are authoritative and binding in all other member states, subject to limited public policy exceptions.[45] OAPI is a contracting party to the Patent Cooperation Treaty, the Madrid Protocol (acceded in December 2014), and the Hague Agreement, enabling integration with the major international filing systems.[46]

3.4 Structural Comparison of ARIPO and OAPI

The differences between these two organizations are significant and consequential for practitioners. ARIPO operates as a filing system alongside national IP offices that retain their own legislation; OAPI replaces national IP offices entirely.[47] In ARIPO's system, applicants must designate specific countries and designated states may refuse recognition of granted rights; in OAPI's system, protection is automatic, unitary, and non-refusable. ARIPO conducts substantive patent examination under a deferred examination system, while OAPI only introduced substantive examination from January 2025.[48] ARIPO operates primarily in English, OAPI primarily in French. ARIPO covers mainly eastern and southern Africa, while OAPI covers West and Central Africa. The cost differential is also significant: estimated lifecycle costs for patent protection across all ARIPO member states are approximately $37,842, compared to approximately $30,132 for all

43 Bangui Agreement 1977, art 2(1).

44 Spoor & Fisher (n 18).

45 Bangui Agreement 1999, art 16(2).

46 WIPO, 'AFRICAN INTELLECTUAL PROPERTY ORGANIZATION (OAPI) – OA Jurisdiction – General Information' <https://inspire.wipo.int/system/files/oapi.pdf> accessed 18 February 2026.

47 European Commission IP Helpdesk, 'Africa – FAQ' <https://intellectual-property-helpdesk.ec.europa.eu/regional-helpdesks/africa-ip-sme-helpdesk/africa-faq_en> accessed 18 February 2026.

48 Inventa (n 38).

OAPI member states where a single fee covers all seventeen jurisdictions.[49]

These structural differences reflect distinct philosophies. OAPI's supranational model offers simplicity, uniformity, and automatic continental coverage but at the cost of national sovereignty over IP policy. ARIPO's intergovernmental model preserves national autonomy and flexibility but creates enforcement uncertainty, as dramatically demonstrated by the non-domestication problem in Tanzania.

Nigeria is not a member of OAPI and has no formal engagement with the organization, a natural consequence of its anglophone legal heritage. Like ARIPO, OAPI membership holds limited relevance for Nigeria absent radical changes in policy direction.

4. The AfCFTA IP Protocol and Continental Harmonization

4.1 Background to the AfCFTA

The African Continental Free Trade Area Agreement was signed on 21 March 2018 in Kigali, Rwanda, and entered into force on 30 May 2019.[50] As of late 2025, approximately 49 countries have ratified the Agreement, with only Eritrea having not signed.[51] Nigeria initially hesitated. It was among eleven holdout states at the Kigali summit.[52] However, Nigeria signed on 7 July 2019 at the AU Assembly in Niamey, Niger, ratified through the Federal Executive Council on 4 November 2020, and deposited its instrument of ratification on 5 December 2020, becoming the 34th State Party.[53]

---

[49] Anthony de Andrade & Venkatesh Viswanath, 'The Costs of Patenting in Africa' IPWatchdog (4 August 2017) <https://ipwatchdog.com/2017/08/04/costs-patenting-in-africa/> accessed 22 February 2026.

[50] Agreement Establishing the African Continental Free Trade Area (adopted 21 March 2018, entered into force 30 May 2019).

[51] Tralac, 'Status of AfCFTA Ratification' (2025) <https://www.tralac.org/resources/infographic/13795-status-of-afcfta-ratification.html> accessed 18 February 2026.

[52] United Nations Economic Commission for Africa, 'Nigeria Becomes 34th Country to Ratify AfCFTA Agreement' (UNECA, 2020) <https://www.uneca.org/storys/nigeria-becomes-34th-country-ratify-afcfta-agreement> accessed 18 February 2026.

[53] ibid.

4.2 Phase II Negotiations and Protocol Adoption

The AfCFTA's negotiation architecture spans three phases. Phase I, encompassing trade in goods, trade in services, and dispute settlement, has been operational since 2021. Phase II addresses investment, competition policy, and intellectual property rights.[54] All three Phase II Protocols were adopted by the 36th Ordinary Session of the AU Assembly in February 2023 in Addis Ababa.[55] Phase III protocols on digital trade and women and youth in trade were adopted in February 2024.

The AfCFTA Protocol on Intellectual Property Rights consists of a Preamble, seven chapters, and 42 articles. However, a critical distinction must be drawn: while the Protocol framework has been adopted, the detailed Annexes on specific IP categories remain under negotiation as of early 2026.[56] The Protocol provides for at least eight additional Annexes that will contain the substantive obligations, meaning that implementation details are yet to be finalized. The Protocol itself requires separate ratification, and 22 instruments of ratification must be deposited before it enters into force.[57] This threshold has not yet been met.

4.3 Scope and Key Provisions

Article 4 of the Protocol applies to all categories of intellectual property, including patents, trademarks, copyright, industrial designs, geographical indications, utility models, undisclosed information, layout designs, traditional knowledge, traditional cultural expressions, genetic resources, and standards addressing public health emergencies and local pharmaceutical production.[58] This scope is notably broader than TRIPS.

Several provisions carry transformative potential. Article 7 adopts regional exhaustion of intellectual property rights, meaning rights are exhausted once a product is placed on the market in any AfCFTA member state.[59] This enables parallel imports across the continent and

---

54 AfCFTA Agreement, art 7.

55 Decision of the Assembly of the African Union (n 2).

56 Ogbodo (n 1) 312–314.

57 AfCFTA Protocol on Intellectual Property Rights, art 42.

58 ibid, art 4.

59 ibid, art 7.

could significantly affect pharmaceutical pricing and access to medicines. Articles 18 through 20 mandate databases on traditional knowledge, protection of traditional cultural expressions, and mandatory disclosure of the origin of genetic resources used in IP applications.[60] These provisions have been described by scholars as "TRIPS-Plus" in a developmental direction unique to Africa's needs. Article 31 establishes an AfCFTA Intellectual Property Office, though its relationship with ARIPO and OAPI requires further negotiation.[61] Article 37 provides that the Protocol prevails over other regional agreements in case of conflict, though this does not resolve potential conflicts with global instruments like TRIPS.[62]

4.4 Interactions with TRIPS, WIPO, and Regional Frameworks

The Protocol is both TRIPS-compatible and TRIPS-Plus in certain aspects. It mirrors TRIPS structurally but extends protection to areas not regulated under TRIPS, particularly traditional knowledge, genetic resources, and traditional cultural expressions.[63] The Preamble preserves TRIPS flexibilities, including LDC exemptions for pharmaceutical patent protection. However, potential hierarchy-of-norms conflicts remain unresolved: WTO members are bound by the Marrakesh Agreement to conform national laws to TRIPS, and Article 37's supremacy clause may not override these global obligations.[64]

The Protocol explicitly acknowledges ARIPO and OAPI under Article 34, mandating cooperation among state parties, regional economic communities, and regional IP organizations. Yet the cooperation provisions remain broad and non-specific, and the proposed AfCFTA IP Office raises the prospect of institutional duplication.[65] The now-dormant Pan-African Intellectual Property Organization (PAIPO), whose Statute was adopted by the AU Assembly in January 2016 but attracted only six signatures and never entered into force, may be rendered entirely redundant by the AfCFTA IP Protocol.[66]

---

60 ibid, arts 18–20.
61 ibid, art 31.
62 ibid, art 37.
63 Ogbodo (n 1) 315–318.
64 ibid, 320.
65 ibid, 322–325.
66 ibid, 323. See also Ogbodo J, cited therein.

4.5 Implications for Nigeria

For Nigeria, the Protocol represents perhaps the most significant IP development in decades. As Africa's largest economy sitting outside both ARIPO and OAPI, the AfCFTA framework provides Nigeria's first opportunity to participate in a continental IP architecture.[67] Nigeria's creative industries, particularly Nollywood, which contributes approximately $7.2 billion (1.42% of GDP) and employs over one million people, stand to benefit from multi-territorial copyright recognition across 54 member states.[68] The pharmaceutical sector, where Africa imports 61% of its $18 billion annual demand for packaged medicines with only 3% met by intra-African trade, could benefit from the regional exhaustion principle and provisions supporting local manufacturing.[69] The technology sector, including Nigeria's rapidly growing fintech ecosystem, would gain from harmonized IP protection frameworks that reduce the legal complexity of operating across borders.

5. Nigeria's Domestic IP Framework and Its Regional Disconnection

5.1 Overview of Principal IP Statutes

Nigeria's IP legislation consists of several principal statutes of varying vintages and adequacy. The Patents and Designs Act (Cap P2 LFN 2004), originally enacted as Decree No. 60 of 1970, governs patent and industrial design registration.[70] It grants patents for inventions that are new, result from inventive activity, and are capable of industrial application. Patent protection runs for 20 years from filing; industrial designs receive 5 years, renewable for two consecutive periods to a maximum of 15 years.[71] Critically, the Act provides for only formal examination of patent applications and no substantive examination of

---

67 Flora IP (n 28).

68 World Economic Forum, 'Under AfCFTA, Pharmaceutical Investment Means Impact and Profit' (2023) <https://www.weforum.org/stories/2023/03/in-africa-s-free-trade-area-investment-in-pharmaceuticals-means-impact-and-profit/> accessed 18 February 2026.

69 ibid.

70 Patents and Designs Act, Cap P2, Laws of the Federation of Nigeria 2004, originally Decree No. 60 of 1970.

71 Patents and Designs Act, ss 7 and 21.

patentability, meaning technically deficient patents can and do reach the register.[72]

The Trade Marks Act (Cap T13 LFN 2004), originally the Trade Marks Act of 1965, provides for trademark registration with an initial period of 7 years and subsequent 14-year renewal periods.[73] The register is divided into Part A (distinctive marks) and Part B (less distinctive marks). Nigeria follows a first-to-file system and a single-class filing system. The Act does not cover service marks.[74]

5.2 The Copyright Act 2022 as a Modernization Milestone

The Copyright Act 2022, signed into law by President Muhammadu Buhari on 17 March 2023, represents the most significant IP legislative achievement in Nigeria in decades.[75] Repealing the Copyright Act Cap C28 LFN 2004, the new statute spans 109 sections across 12 parts and comprehensively modernizes Nigeria's copyright regime. Key innovations include express protection of works in the digital environment; replacement of "cinematograph films" with the broader concept of "audiovisual works"; introduction of safe harbor provisions for internet service providers with notice-and-takedown mechanisms; criminalization of circumvention of technological protection measures; a comprehensive framework for regulating collective management organizations; enhanced performers' rights including an inalienable resale right (*droit de suite*); provisions implementing the Marrakesh Treaty for accessible formats for visually impaired persons; and significantly increased criminal penalties for infringement.[76] The Act also lowered the originality threshold from

---

[72] Patents and Designs Act, s 4; European Commission, 'IP Country Fiche – Nigeria' (2022) <https://intellectual-property-helpdesk.ec.europa.eu/system/files/2022-02/IP-Country-Fiche_NIGERIA.pdf> accessed 18 February 2026.

[73] Trade Marks Act, Cap T13, Laws of the Federation of Nigeria 2004, originally Trade Marks Act 1965.

[74] Trade Marks Act, ss 23–25; European Commission, 'IP Country Fiche – Nigeria' (n 72).

[75] Copyright Act 2022 (signed 17 March 2023) 2023 No. 8; Nigerian Copyright Commission, 'Copyright Act, 2022' <https://www.copyright.gov.ng/CopyrightAct/CopyrightAct2023FinalPublication1.pdf> accessed 18 February 2026.

[76] G Elias & Co (GELIAS), 'A Review of the Nigerian Copyright Act, 2022' (2023) <https://www.gelias.com/ images/Newsletter/A_Review_of_ the_ Nigerian_Copyright_Act_2022.pdf> accessed 18 February 2026.

"sufficient effort" to "some effort," aligning more closely with international standards.[77]

5.3 International Treaty Membership and TRIPS Compliance

Nigeria is a member of WIPO and a founding member of the WTO (since 1 January 1995), making it bound by the TRIPS Agreement.[78] However, TRIPS has not been separately domesticated as national legislation enforceable in Nigerian courts under Section 12 of the 1999 Constitution. Nigeria is party to the Berne Convention (since 14 September 1993), the Patent Cooperation Treaty, the WIPO Copyright Treaty, the WIPO Performances and Phonograms Treaty (both effective 4 January 2018), the Beijing Treaty on Audiovisual Performances, the Marrakesh Treaty, the Paris Convention for the Protection of Industrial Property, and most recently the UPOV Convention (acceded 27 February 2025).[79]

A glaring gap is Nigeria's non-membership in the Madrid Protocol, meaning international trademarks registered through WIPO's Madrid System cannot be extended to Nigeria, and Nigerian businesses cannot use the system to protect their trademarks abroad through a single application.[80] This places Nigeria and South Africa as the two largest African economies excluded from the international trademark registration system.

5.4 Landmark Nigerian IP Jurisprudence

Nigerian courts have produced a modest but instructive body of IP case law. The Supreme Court's decision in *Ferodo Limited & Anor v Ibeto Industries Limited* remains the leading authority on trademark infringement in Nigeria.[81] Ferodo, an English manufacturer of FERODO brake linings sold in distinctive red, black, and white packaging (Registered Trade Mark No. 38604), sued Ibeto Industries

---

77 ibid.

78 European Commission, 'IP Country Fiche – Nigeria' (n 72).

79 WIPO Lex, Treaty Notifications for Nigeria; Mondaq, 'A Review of Nigeria's National Intellectual Property Policy & Strategy 2025' (2025) <https://www.mondaq.com/nigeria/trademark/1720604/a-review-of-nigerias-national-intellectual-property-policy-strategy-2025> accessed 18 February 2026.

80 Gresyndale Legal, 'Trademark Protection Across Africa & WIPO' (2024) <https://gresyndale.com/does-a-trademark-registered-with-wipo-have-local-recognition-in-african-countries/> accessed 18 February 2026.

81 *Ferodo Limited & Anor v Ibeto Industries Limited* (2004) LPELR-1275 (SC).

for marketing UNION brake linings in confusingly similar packaging. The Supreme Court articulated the test that marks should not simply be compared side by side; rather, the question is whether a person encountering the defendant's mark would likely confuse it with the registered mark.[82] The decision clarified the scope of trademark registration and the elements of passing off under Nigerian law.

In *Multichoice Nigeria Limited v Musical Copyright Society Nigeria (MCSN) Ltd/Gte*,[83] the court addressed the relationship between collective management organization licensing and direct copyright ownership, holding that while only NCC-licensed collecting societies may demand royalties in their capacity as CMOs, assignees and exclusive licensees of copyright works retain independent standing to demand royalties and sue for infringement.

In *Bedding Holding Limited (BHL) v INEC & 5 Others* (FHC/ABJ/CS/783/2010),[84] the Federal High Court found INEC guilty of infringing BHL's patent rights related to biometric data capture machines, one of few successful patent infringement actions in Nigerian courts. Other notable decisions include *Trebor Nigeria Ltd v Associated Industries Ltd*,[85] establishing the fundamental rule against passing off one's goods as those of a rival trader, and *Niger Chemist v Nigerian Chemist*,[86] where the court found passing off where the defendant operated a business with a confusingly similar name on the same street.

5.5 Persistent Challenges in Nigeria's IP Ecosystem

Nigeria's IP system faces deep structural challenges. The Patents and Designs Act is over 55 years old and the Trade Marks Act over 60 years old, neither having been substantially amended since enactment.[87] Neither statute addresses software patents, digital

---

[82] ibid.

[83] *Multichoice Nigeria Limited v Musical Copyright Society Nigeria (MCSN) Ltd/Gte* (Federal High Court).

[84] *Bedding Holding Limited (BHL) v. INEC & 5 Others* (FHC/ABJ/CS/783/2010).

[85] *Trebor Nigeria Ltd v Associated Industries Ltd* [1972] NCLR 471.

[86] *Niger Chemist v Nigerian Chemist* (1961) WNLR 179.

[87] Mondaq, 'Strengthening Intellectual Property Rights and Protection in Nigeria' (2019) <https://www.mondaq. com/nigeria/trademark/788714/strengthening-intellectual-property-rights-and-protection-in-nigeria> accessed 18 February 2026.

technology, geographical indications, utility models, or service marks. The absence of substantive patent examination undermines the credibility of granted patents. The Trademarks, Patents and Designs Registry still operates manual record systems as an underfunded appendage of the Federal Ministry of Industry, Trade and Investment.[88]

Enforcement gaps are severe. Nigeria has been described as the largest market in Africa for counterfeit and pirated products, functioning as a gateway to the rest of Africa.[89] Software piracy is estimated at 80% by the Business Software Alliance, and the World Health Organization has reported that up to 70% of pharmaceuticals in Nigeria may be fake or substandard.[90] The Nigerian Copyright Commission remains the most active enforcement body. Between 2007 and 2011, it confiscated pirated works worth over US$4.8 million, and in January 2012 alone destroyed approximately 722 million pirated works.[91] However, it faces persistent resource constraints. The Nigeria Customs Service lacks ex-officio authority for IP enforcement, and courts suffer from slow proceedings and insufficient numbers of judges specifically trained in IP law.[92]

5.6 Recent Reform Developments

The absence of a comprehensive national IP policy has compounded these problems. However, a landmark development occurred on 6 November 2025, when Nigeria's Federal Executive Council approved the National Intellectual Property Policy and Strategy (NIPPS), developed through a multi-year partnership with WIPO beginning in 2020 with inputs from over 200 stakeholders.[93] The NIPPS sets seven strategic objectives: strengthening the legal framework, strengthening

---

88 European Commission, 'IP Country Fiche – Nigeria' (n 72).

89 US Department of Commerce, International Trade Administration, 'Nigeria – Protecting Intellectual Property' (2024) <https://www.trade.gov/country-commercial-guides/nigeria-protecting-intellectual-property> accessed 18 February 2026.

90 ibid.

91 European Commission, 'IP Country Fiche – Nigeria' (n 72).

92 ibid.

93 WIPO, 'Nigeria's Federal Executive Council Approves National Intellectual Property Policy and Strategy' (6 November 2025) <https://www.wipo.int/en/web/office-nigeria/w/news/2025/nigeria-s-federal-executive-council-approves-national-intellectual-property-policy-and-strategy> accessed 18 February 2026.

the institutional framework, enhancing IP generation and protection, promoting commercial exploitation of IP assets, strengthening enforcement, developing human resources, and promoting IP training and awareness.[94]

The Industrial Property Commission Bill (IPCOM), first presented to the National Assembly in 2016, seeks to harmonize existing IP laws by establishing a single Industrial Property Commission of Nigeria, repealing both the Trade Marks Act and the Patents and Designs Act.[95] The Bill would introduce comprehensive provisions for trademarks, patents, designs, plant varieties, animal breeders' and farmers' rights, and utility models. It passed first and second readings plus committee hearing in March 2018 but has not been enacted as of early 2026.[96] Nigeria enacted the Plant Variety Protection Act 2021 and acceded to the UPOV Convention in February 2025, showing progress in agricultural IP protection.[97]

6. The Future Outlook

6.1 The Question of ARIPO Membership

The academic debate over whether Nigeria should join ARIPO provides a compelling arguments on both sides. Proponents emphasize access to a multi-country filing system, AfCFTA synergies, revenue-sharing from fee collection, capacity-building benefits, and influence over regional IP policy.[98] Critics on the other hand counter with the Banjul Protocol's enforcement failures, the risk of institutional fragmentation, the potential redundancy of ARIPO membership if the AfCFTA IP Protocol is fully implemented, loss of filing fee revenue, and questions about whether ARIPO membership would materially improve patent quality given that ARIPO also historically conducted only formal examination.[99] The *Lakairo* decision in Tanzania powerfully illustrates the enforcement risks inherent in ARIPO's trademark system.[100]

---

94 Mondaq, 'A Review of Nigeria's National Intellectual Property Policy & Strategy 2025' (n 79).

95 ibid.

96 ibid.

97 ibid.

98 Flora IP (n 28).

99 ibid.

100 *Lakairo Industries Group & Others v Kenafric Industries & Others* (n 20).

On balance, the stronger case may be for Nigeria to channel its energies into the AfCFTA IP Protocol process rather than ARIPO membership. The AfCFTA framework has the advantage of including all African states, addresses IP categories (particularly traditional knowledge and genetic resources) that are of great significance to Nigeria, and avoids the legacy enforcement problems of the existing regional systems. Nigeria's economic weight gives it considerable leverage in shaping AfCFTA IP rules, leverage that would be diluted within ARIPO's smaller membership.

6.2 How Nigeria Can Leverage the AfCFTA IP Protocol

Nigeria should engage actively and assertively in the AfCFTA IP Protocol Annex negotiations, particularly on copyright (leveraging Nollywood's economic significance), pharmaceutical manufacturing and access to medicines, traditional knowledge protection for Nigeria's rich biodiversity and cultural heritage, and digital IP frameworks aligned with the growing tech ecosystem.[101] Nigeria began trading under the AfCFTA Guided Trade Initiative in July 2024, with first shipments moving from Lagos to Cameroon, Kenya, Algeria, Uganda, and Egypt.[102] As trade volumes grow, so will disputes over trademarks, patents, and copyright across borders, disputes for which the current fragmented framework provides inadequate resolution mechanisms. Nigeria should also explore bilateral and multilateral agreements with key African trading partners to address enforcement cooperation in advance of the AfCFTA Protocol's entry into force.

6.3 Reforms Needed in Nigeria's IP Landscape

The priorities for Nigerian IP reform are clear from the evidence gathered. Legislatively, the Patents and Designs Act and Trade Marks Act must be replaced with modern statutes introducing substantive patent examination, multiclass trademark applications, service mark protection, and utility model registration.[103] The IPCOM Bill, or an

---

[101] Adewopo A, Oriakhogba DO and Okorie C, 'Intellectual Property and Development: Analysing the African Continental Free Trade Area Agreement IP Protocol Regime' (2022) 16(1) *Law and Development Review* 143, 168–172.

[102] Techpoint Africa, 'Nigeria Approves Reforms to Boost Digital Trade and Protect Intellectual Property' (2025) <https://techpoint.africa/news/nigeria-digital-trade-ip-reforms/> accessed 18 February 2026.

[103] Mondaq, 'Strengthening Intellectual Property Rights and Protection in Nigeria' (n 87).

updated version, should be enacted as a matter of urgency. Nigeria should accede to the Madrid Protocol to integrate Nigerian trademarks into the international registration system, as the costs of continued exclusion are unjustifiable for Africa's largest economy.[104]

Institutionally, the Trademarks, Patents, and Designs Registry must be digitized and properly resourced, ideally consolidated into a single autonomous agency.[105] The NIPPS approved in November 2025 provides an excellent roadmap, but execution will require sustained political commitment and dedicated funding. Dedicated IP tribunals or specialized court divisions would accelerate the resolution of IP disputes and develop a more robust body of jurisprudence.[106]

7. Conclusion

The African IP landscape stands at an inflection point. The two established regional organizations, ARIPO and OAPI, have served their respective constituencies for nearly five decades but remain divided along colonial linguistic lines, leaving major economies outside their coverage. The AfCFTA IP Protocol offers a path toward continental harmonization, but its Annexes remain unfinished and its ratification threshold unmet. For Nigeria, the challenge is twofold: modernizing an outdated domestic IP framework while simultaneously positioning itself to shape and benefit from the emerging continental architecture.

The approval of the NIPPS in November 2025 signals political recognition that IP reform is overdue. The Copyright Act 2022 demonstrates that legislative modernization is achievable. But the Patents and Designs Act and Trade Marks Act remain relics of the 1960s and 1970s, fundamentally inadequate for a 21st-century economy aspiring to continental leadership. The stalling of the IPCOM Bill for nearly a decade indicates a broader pattern of legislative inertia that Nigeria can no longer afford.

Three priorities stand out. First, Nigeria must modernize its industrial property legislation, introducing substantive patent examination,

---

[104] Gresyndale Legal (n 80).

[105] WIPO, 'Nigeria's Federal Executive Council Approves National Intellectual Property Policy and Strategy' (n 93).

[106] ibid.

joining the Madrid Protocol, and establishing an autonomous, digitized IP office. Second, Nigeria should leverage its economic weight to shape the AfCFTA IP Protocol Annexes, particularly in areas where it has comparative advantage, including creative industries, traditional knowledge, and pharmaceutical manufacturing. Third, rather than seeking ARIPO membership, Nigeria should focus on building bilateral enforcement cooperation agreements with key trading partners while the AfCFTA framework matures. Africa's IP future will be shaped in the coming years by the decisions made in Abuja, Accra, Harare, and Yaoundé. Nigeria's voice, representing over 200 million people and Africa's most dynamic creative economy, must be at the table and not merely observing from the margins.